

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

APR 15 1975

Civil Action File No. 75-C-117

Jack C. Silver, Clerk
U. S. DISTRICT COURT

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff

v.

ROBERT V. EHRMAN

ROBERT V. EHRMAN, d/b/a
EHRMAN OIL COMPANY

Defendants

ORDER OF PERMANENT
INJUNCTION BY CONSENT
AND DISGORGEMENT

IT APPEARING to the Court that the defendants ROBERT V. EHRMAN and ROBERT V. EHRMAN, d/b/a EHRMAN OIL COMPANY, without admitting or denying the allegations in plaintiff's Complaint, have stipulated and consented to the entry of an order of permanent injunction as prayed for in plaintiff's Complaint, enjoining said defendants from engaging in acts and practices which constitute and will constitute violations of Sections 5(a), 5(c), and 17(a) of the Securities Act of 1933, as amended [15 U.S.C. 77e(a), 77e(c), and 77q(a)], and Section 10(b) of the Securities Exchange Act of 1934, as amended [15 U.S.C. 78j(b)], and Rule 10b-5 thereunder [17 C.F.R. 240.10b-5], and to the entry of an order of disgorgement; and the Court being fully advised in the premises:

IT IS HEREBY ORDERED, ADJUDGED and DECREED that the defendants ROBERT V. EHRMAN and ROBERT V. EHRMAN, d/b/a EHRMAN OIL COMPANY, their subsidiaries, affiliates, agents, servants, employees, successors and assigns, and each of them, be and hereby are permanently enjoined from directly or indirectly:

(a) Making use of any means or instruments of transportation or communication in interstate commerce or of the mails to offer to sell, through the use or medium of any prospectus or otherwise, fractional undivided interests in oil and gas rights, or any

other securities, unless and until a registration statement has been filed with the Securities and Exchange Commission as to such securities, or while a registration statement filed with the Securities and Exchange Commission as to such securities is the subject of a refusal order or stop order of the Securities and Exchange Commission or (prior to the effective date of a registration statement) any public proceeding or examination under Section 8 of the Securities Act of 1933, as amended [15 U.S.C. 77h].

(b) Making use of any means or instruments of transportation or communication in interstate commerce or of the mails to sell fractional undivided interests in oil and gas rights, or any other securities, through the use or medium of any prospectus or otherwise unless and until a registration statement is in effect with the Securities and Exchange Commission as to such securities;

(c) Carrying such securities or causing them to be carried through the mails or in interstate commerce by any means or instruments of transportation for the purpose of sale or delivery after sale, unless and until a registration statement is in effect with the Securities and Exchange Commission as to such securities;

provided, however, that nothing in the foregoing portion of the requested injunction shall apply to any securities which are exempt from the provisions of Section 5 of the Securities Act of 1933, as amended [15 U.S.C. 77e].

IT IS FURTHER ORDERED, ADJUDGED and DECREED that the defendants, ROBERT V. EHRMAN and ROBERT V. EHRMAN, d/b/a EHRMAN OIL COMPANY, their subsidiaries, affiliates, agents, servants, employees, successors and assigns, and each of them, be and hereby are permanently enjoined from, directly or indirectly, in connection with the offer and sale of fractional undivided interests in oil and gas rights, or any other securities by use of the mails or any means or instruments of

transportation or communication in interstate commerce:

(a) Employing any manipulative or deceptive device, scheme or artifice to defraud, making untrue statements of material facts or omitting to state material facts necessary to be stated in order to make the statements made, in light of the circumstances under which they are made, not misleading, concerning:

- (1) the financial condition of the issuer;
- (2) the ownership of oil properties of the issuer;
- (3) the expected date income would be received from the issuer;
- (4) the use of the proceeds from the sale of the securities by the issuer.

(b) Engaging in any transaction, practice or course of business which operates or would operate as a fraud or deceit upon any purchaser of the aforementioned securities or engaging in any other practice or course of business of similar purport or object.

IT IS FURTHER ORDERED, ADJUDGED and DECREED that ROBERT V. EHRMAN shall disgorge himself of all benefits received from the offer and sale of fractional undivided interests in oil and gas rights in the Bellevue Oil Field, Bossier Parish, Louisiana, by paying over to the registry of this Court the sum of \$20,832 at a rate of no less than \$1,004.16 per month commencing May 1, 1975.

IT IS FURTHER ORDERED, ADJUDGED and DECREED that this Court will disburse from the registry of this Court the sums received from ROBERT V. EHRMAN after each such payment in the following manner:

2/7ths to:	Jack J. Backmann 9027 Grant Farm Trail St. Louis, Missouri 63126
1/7th to:	Eugene H. Fahrenkrog 12766 Shady Creek Lane St. Louis, Missouri 63141
1/7th to:	Julie Fahrenkrog 12766 Shady Creek Lane St. Louis, Missouri 63141

1/7th to: Mary M. Tuttle
6720 Clayton Avenue
St. Louis, Missouri 63139

1/7th to: Arthur Plass
400 Prairie
Elmhurst, Illinois 60126

1/7th to: Morris Davidson
128 Frontenac Forest
St. Louis, Missouri 63131

IT IS FURTHER ORDERED that this Court will retain jurisdiction of this cause for the purpose of such other and further relief as may be required in the interest of justice and equity and as the Court may deem necessary and proper.

ENTERED this 15 day of April, 1975.



UNITED STATES DISTRICT JUDGE
Northern District of Oklahoma

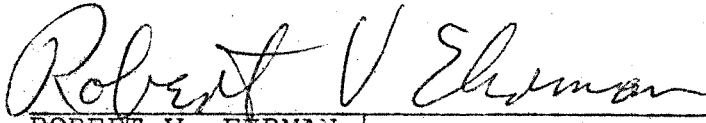
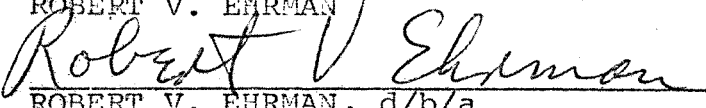
STIPULATION AND CONSENT

The defendants ROBERT V. EHRMAN and ROBERT V. EHRMAN, d/b/a EHRMAN OIL COMPANY, without admitting or denying the allegations in plaintiff's Complaint, consent to the entry of the foregoing Order permanently enjoining them from violations of Sections 5(a), 5(c), and 17(a) of the Securities Act of 1933, as amended [15 U.S.C. 77e(a), 77e(c), and 77q(a)], and Section 10(b) of the Securities Exchange Act of 1934, as amended [15 U.S.C. 78j(b)], and Rule 10b-5 promulgated thereunder [17 C.F.R. 240.10b-5], as prayed for in plaintiff's Complaint.

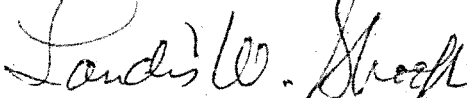
Defendants ROBERT V. EHRMAN and ROBERT V. EHRMAN, d/b/a EHRMAN OIL COMPANY, without admitting or denying the allegations in plaintiff's Complaint, consent to the entry of an Order of Disgorgement of all benefits received from the offer and sale of fractional undivided interests in oil and gas rights in the Bellevue Oil Field,


Bossier Parish, Louisiana, in the amount of \$20,832 as prayed for in plaintiff's Complaint.

SIGNED this 3rd day of April, 1975.


ROBERT V. EHRMAN

ROBERT V. EHRMAN, d/b/a
EHRMAN OIL COMPANY

APPROVED AS TO FORM:


LANDIS W. SHOOK
Attorney for Defendants
214 West 8th
Stillwater, Oklahoma 74074


WAYNE M. WHITAKER
Attorney for Plaintiff
SECURITIES AND EXCHANGE COMMISSION
503 United States Courthouse
Fort Worth, Texas 76102

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

OKLAHOMA GAS AND ELECTRIC COMPANY,
an Oklahoma corporation

Plaintiff

vs.

The United States of America, Trustee and
Owner of the Legal Title to certain land for the
use and benefit of certain Restricted Indians,

THE HEIRS, EXECUTORS, ADMINISTRATORS, DEVISEES,
TRUSTEES AND ASSIGNS OF JOHN MYYOUCUS, OTOE
ALLOTTEE No. 205, deceased

Martin Diehm, Tenant

Defendants

No. 74-C-261

FILED

APR 15 1975

Jack C. Silver, Clerk
U. S. DISTRICT COURT

JOURNAL ENTRY OF JUDGMENT, ORDER
CONFIRMING REPORT OF COMMISSIONERS
AND ORDER OF DISTRIBUTION

This matter coming on to be heard on this 15th day of April, 1974, upon the joint motion of Plaintiff and Defendant, United States of America, Trustee and Owner of the legal title to certain land for the use and benefit of certain Restricted Indians, at which time the Plaintiff appeared by its attorney, Paul Walters, and the Defendant, United States of America, Trustee, appeared by Nathan G. Graham, U.S. Attorney, Northern District of Oklahoma, and said parties in open court having agreed that this matter might be heard without further notice, and the Court being fully advised in the premises finds:

1.

Plaintiff is a corporation organized and existing under the laws of the State of Oklahoma and vested with the power of eminent domain for the acquisition of property necessary for the generation, transmission and distribution of electric power and energy.

2.

It is necessary for the Plaintiff to appropriate and take, under the powers vested in it by the statutes of the State of Oklahoma and the statutes of the United States of America, the property more particularly described in Plaintiff's Complaint and Order Appointing Commissioners on file herein, for the development, construction, operation and maintenance of an electrical power generating plant, including a dam and reservoir for the retention and storage of water used in connection therewith; that the United States of America, Trustee and Owner of the legal title to certain land for the use and benefit of certain Restricted Indians, has filed herein an entry of appearance on behalf of said Restricted Indian Defendants.

3.

That more than sixty days have expired since the filing of the Report of Commissioners herein and none of the Defendants nor the Plaintiff have filed a demand for jury trial and the time for such filing having expired said Report has become final and binding on said parties and judgment should be entered pursuant thereto.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the Plaintiff, Oklahoma Gas and Electric Company, have and recover judgment against the Defendants, The United States of America, Trustee and Owner of the Legal Title to certain land for the use and benefit of certain Restricted Indians, and The Heirs, Executors, Administrators, Devisees, Trustees and Assigns of John Myyoucus, Otoe Allottee No. 205, Deceased, condemning and vesting in Plaintiff fee simple title to the following described property situated in Pawnee County, Oklahoma, to-wit:

An undivided 28/120ths interest in and to the West Half of Northwest Quarter ($W\frac{1}{2} NW\frac{1}{4}$) LESS a tract of land more particularly described as $S\frac{1}{2} S\frac{1}{2} S\frac{1}{2} SW\frac{1}{4} NW\frac{1}{4} NW\frac{1}{4}$ and $N\frac{1}{2} N\frac{1}{2} NW\frac{1}{4} SW\frac{1}{4} NW\frac{1}{4}$, all in Section 21, Township 23 North, Range 3 East, Pawnee County, Oklahoma,

for the development, construction, operation and maintenance of an electrical power generating plant, including a dam and reservoir for the retention and storage of water used in connection therewith.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Report of Commissioners made and filed herein on the 9th day of August, 1974, be and the same is hereby approved and confirmed and that the above named Defendants, as the owners of the above described tract of land, have and recover judgment against the Plaintiff as compensation and damage for the taking and appropriation of said property as follows:

The United States of America, Trustee and Owner of the Legal Title for the use and benefit of Arvel Custer Brown, Gladys, L. Moore and Willard Wilbur Brown Estate. \$8,658.86

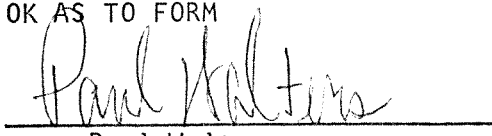
Lila Sheats Smith Brown Estate \$1,039.06

and that the Clerk of this Court be and hereby is directed to disburse the sum of \$8,658.86 to the ~~United States of America, Trustee~~, and the sum of \$1,039.06 to Lila Sheats Smith Brown Estate.

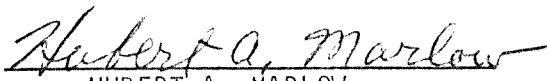
Bureau of Indian Affairs, for the benefit of Arvel Custer Brown, Gladys L. Moore and Willard Wilbur Brown Estate.


U.S. District Judge

OK AS TO FORM


Paul Walters
P.O. Box 321
Oklahoma City, Oklahoma

Attorney for Plaintiff


HUBERT A. MARLOW
Assistant U.S. Attorney
Attorney for United States
of America, Trustee

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

OKLAHOMA GAS AND ELECTRIC COMPANY,
an Oklahoma corporation,

Plaintiff,

vs.

The United States of America, Trustee and
Owner of the legal title to certain land
for the use and benefit of certain Restricted
Indians; and,

PEARL W. ROBEDEAUX also known as NANCY WHITECLOUD,
an Otoe Indian, Allottee No. 411-A, and

AMOS LITTLE CROW III, a Minor,

Defendants.

NO. CIVIL NO.
74-C-416

FILED
APR 15 1975
Jack C. Silver, Clerk
U. S. DISTRICT COURT

JOURNAL ENTRY OF JUDGMENT

This matter coming on to be heard on this 15 day of April, 1975, upon the joint motion of Plaintiff and Defendant, United States of America, Trustee and Owner of the legal title to certain land for the use and benefit of certain Restricted Indians, for a judgment confirming the Report of Commissioners heretofore filed herein, at which time the Plaintiff appeared by its attorney, Paul Walters, and the Defendant, United States of America, Trustee, appeared by Nathan Graham, United States Attorney for the Northern District of Oklahoma, and said parties in open court having agreed that this matter might be heard without further notice, and the Court being fully advised in the premises finds:

1.

Plaintiff is a corporation organized and existing under the laws of the State of Oklahoma and vested with the power of eminent domain for the acquisition of property needed in its business of generating, transmitting, distributing and furnishing electricity to the public for light, heat and power purposes.

2.

It is necessary for the Plaintiff to appropriate and take, under the powers vested in it by the statutes of the State of Oklahoma and the statutes of the United States of America, the property more particularly described in Plaintiff's Complaint and Order Appointing Commissioners on file herein, for the development, construction, operation and maintenance of an electrical power generating plant, including a dam and reservoir for the retention and storage of water used in connection therewith; that the United States of America, Trustee and Owner of the legal title to certain land for the use and benefit of certain Restricted Indians, has filed herein an entry of appearance on behalf of said Restricted Indian Defendants.

3.

That No Demand for Jury Trial has heretofore been filed by either Plaintiff or Defendants.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the Plaintiff, Oklahoma Gas and Electric Company, have and recover judgment against the Defendants, United States of America, Trustee and Owner of the legal title

to certain land for the use and benefit of certain Restricted Indians, Pearl W. Robedeaux also known as Nancy Whitecloud, an Otoe Indian, Allottee No. 411-A, and Amos Little Crow III, a minor, condemning and vesting in Plaintiff fee simple title to the following described property situated in Pawnee County, Oklahoma, to-wit:

An undivided 35/132nds interest in and to the North Half of the North Half of the Southwest Quarter of the Southeast Quarter (N $\frac{1}{2}$ N $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$) of Section 30, Township 23 North, Range 3 East, Pawnee County, Oklahoma.

for the development, construction, operation and maintenance of an electrical power generating plant, including a dam and reservoir for the retention and storage of water used in connection therewith.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Amended Report of Commissioners made and filed herein on the 12th day of December, 1974, be and the same is hereby approved and confirmed and that the above defendants, as the owners of the above described tract of land, have and recover judgment against the Plaintiff as compensation and damages for the taking and appropriation of said property in the amount of \$1,325.80.

IT IS FURTHER ORDERED that the Clerk of this Court be and hereby is directed to disburse from the Commissioners Award heretofore deposited with the Clerk by the Plaintiff, the aforesaid amount of \$1,325.80 to *Bureau* Pearl W. Robedeaux also known as Nancy Whitecloud, an Otoe Indian, Allottee No. 411-A and Amos Little Crow III, a minor.

*of Indian
Havir for
to benefit of*

W. J. Leback
U.S. DISTRICT JUDGE

APPROVED:

151 Paul Walters
Attorney for Plaintiff

151 Hubert A. Marlow
Attorney for Defendants

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)
)
)
Plaintiff,)
)
)
vs.)
)
)
GEORGE McBRIDE, PATRICIA McBRIDE,)
COUNTY TREASURER, TULSA COUNTY,)
BOARD OF COUNTY COMMISSIONERS,)
TULSA COUNTY,)
)
Defendants.)

CIVIL ACTION NO. 74-C-445 ✓

E I L E D
APR 14 1975 *hmv*
Jack C. Silver, Clerk
U. S. DISTRICT COURT

JUDGMENT OF FORECLOSURE

THIS MATTER COMES on for consideration this 14th day of April, 1975, the Plaintiff appearing by Robert P. Santee, Assistant United States Attorney; the Defendants County Treasurer, Tulsa County, and Board of County Commissioners, Tulsa County, appearing by Gary J. Summerfield, Assistant District Attorney, Tulsa County; and the Defendants, George McBride and Patricia McBride, appearing not.

The Court being fully advised and having examined the file herein finds that Defendants, County Treasurer, Tulsa County, and the Board of County Commissioners, Tulsa County, were served on November 14, 1974, both as appears from the Marshals Return of Service herein and that service by publication was made on George McBride and Patricia McBride as appears from the Proof of Publication filed herein.

It appearing that the Defendants, County Treasurer, Tulsa County, and Board of County Commissioners, Tulsa County, have duly filed their answers herein on November 25, 1974; that Defendants, George McBride and Patricia McBride, have failed to answer herein and that default has been entered by the Clerk of this Court.

The Court further finds that this is a suit based upon a mortgage note and foreclosure on a real property mortgage securing said mortgage note and that the following described real property is located in Tulsa County, Oklahoma, within the Northern Judicial District of Oklahoma:

Lot Eighteen (18), Block Eight (8), NORTHGATE THIRD ADDITION, an Addition in the City of Tulsa, Tulsa County, Oklahoma, According to the recorded plat thereof.

THAT the Defendants, George McBride and Patricia McBride, did, on the 15th day of September, 1972, execute and deliver to the Diversified Mortgage and Investment Company their mortgage and mortgage note in the sum of \$18,100.00 with 7 percent interest per annum, and further providing for the payment of monthly installments of principal and interest.

THAT by Assignment of Mortgage of Real Estate dated September 21, 1972, Diversified Mortgage and Investment Company assigned said Note and Mortgage to Government National Mortgage Association; and by Assignment dated December 28, 1972, Government National Mortgage Association assigned said Note and Mortgage to The Lomas & Nettleton Co., a Conn. Corp., New Haven, Conn.; and by Assignment dated June 22, 1973, The Lomas & Nettleton Co., a Conn. Corp.,

New Haven, Conn., assigned said Note and Mortgage to The Secretary of Housing and Urban Development of Washington, D.C., His Successors and Assigns.

The Court further finds that Defendants, George McBride and Patricia McBride, made default under the terms of the aforesaid mortgage note by reason of their failure to make monthly installments due thereon for more than 12 months last past, which default has continued and that by reason thereof the above-named Defendants are now indebted to the Plaintiff in the sum of \$18,054.84 as unpaid principal with interest thereon at the rate of 7 percent per annum from February 1, 1974, until paid, plus the cost of this action accrued and accruing.

The Court further finds that there is due and owing to the County of Tulsa, State of Oklahoma, from Defendants, George McBride and Patricia McBride, the sum of \$ 551.11 plus interest according to law for real estate taxes for the year(s) 1973 & 1974 and that Tulsa County should have judgment, in rem, for said amount, and that such judgment is superior to the first mortgage lien of the Plaintiff herein.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the Plaintiff have and recover judgment against Defendants, George McBride and Patricia McBride, in rem, for the sum of \$18,054.84 with interest thereon at the rate of 7 percent per annum from February 1, 1974, plus the cost of this action accrued and accruing, plus any additional sums advanced or to be advanced or expended during this foreclosure action by Plaintiff for taxes, insurance, abstracting, or sums for the preservation of the subject property.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the County of Tulsa have and recover judgment, in rem, against


Defendants, George McBride and Patricia McBride, for the sum of \$ 551.11 as of the date of this judgment plus interest thereafter according to law for real estate taxes, and that such judgment is superior to the first mortgage lien of the Plaintiff herein.

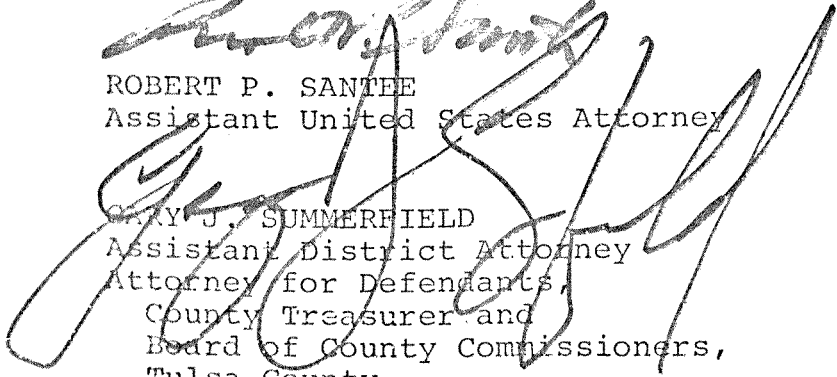
IT IS FURTHER ORDERED, ADJUDGED AND DECREED that upon the failure of said Defendants to satisfy Plaintiff's money judgment herein, an Order of Sale shall be issued to the United States Marshal for the Northern District of Oklahoma, commanding him to advertise and sell with appraisement the real property and apply the proceeds thereof in satisfaction of Plaintiff's judgment which sale shall be subject to the real estate tax judgment of Tulsa County, supra. The residue, if any, shall be deposited with the Clerk of the Court to await further order of the Court.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that from and after the sale of said property, under and by virtue of this judgment and decree, all of the Defendants and each of them and all persons claiming under them since the filing of the complaint herein be and they are forever barred and foreclosed of any right, title, interest or claim in or to the real property or any part thereof.


United States District Judge

APPROVED


ROBERT P. SANTEE
Assistant United States Attorney


GRAY J. SUMMERFIELD
Assistant District Attorney
Attorney for Defendants,
County Treasurer and
Board of County Commissioners,
Tulsa County

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

THE W. W. HENRY COMPANY,
Plaintiff,
vs.
SOONER LAMINATED PLASTICS,
INC.,
Defendant.

No. 74-C-467

E I L E D

APR 14 1975

Jack C. Silver, Clerk
U. S. DISTRICT COURT

JUDGMENT

On this 14th day of April, 1975, there comes on for judgment the captioned case, the plaintiff appearing by its attorney, Robert S. Rizley, and the defendant failing to appear or otherwise plead or answer in this case, and the Clerk, pursuant to Rule No. 55(a) of the Federal Rules of Civil Procedure, having made entry of Default Judgment against the defendant herein, it is therefore

ORDERED, ADJUDGED AND DECREED that the defendant, Sooner Laminated Plastics, Inc., is in default and the plaintiff is entitled to judgment as prayed for in its Complaint. It is further

ORDERED, ADJUDGED AND DECREED that the plaintiff have and recover from the defendant the sum of \$9,075.27 for goods sold and delivered by plaintiff to defendant between April 17, 1974 and July 30, 1974, plus interest to and including the 15th day of April, 1975 in the sum of \$432.79, plus the costs of this action including an attorneys' fee of \$500.00 which the Court finds to be reasonable, plus interest at ten (10) per cent per annum on the total amount of this judgment from the date of this judgment.

W. S. Salebook

United States District Judge

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

APR 14 1975

Jack C. Silver, Clerk
U. S. DISTRICT COURT

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ONE 1974 FORD GRAN TORINO
ELITE, 2-DOOR HARDTOP,
IDENTIFICATION NO. 4G21H232312
ITS TOOLS AND APPURTENANCES,

Respondent.

COMPLAINT
Civil No. 74-C-468

ORDER

NOW, on this 14th day of April, 1975, the above
styled cause comes before the Court for ruling on defendant's
Motion To Dismiss.

The Court having read the pleadings on file and being
fully advised finds that said Motion should be granted.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that
Plaintiff's complaint *and cause of action* herein be dismissed and that the claim
of Ford Motor Credit Company for cost and attorney fees be
denied, and that the 1974 Ford automobile, which is the subject
of this action, be released by the United States Marshal to the
Ford Motor Credit Company upon payment of all storage charges
to date.


UNITED STATES DISTRICT JUDGE

APPROVED.

Attorney For Plaintiff

Attorney for Respondent

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

RICHARD MORALES,
Plaintiff,
-vs-
MAPCO, INC., and
DONALD B. ROSS,
Defendants.

NO. 74-C-271 ✓

FILED
APR 10 1975 *hmc*
Jack C. Silver, Clerk
U. S. DISTRICT COURT

David Lopez, New York, New York, and James G. Davidson, Tulsa, Oklahoma, Attorneys for Plaintiff, Richard Morales.

R. Thomas Seymour and Lawrence T. Chambers, Jr., Tulsa, Oklahoma, Attorneys for Defendant, Donald B. Ross; and Eugene G. Bell, Tulsa, Oklahoma, Attorney for Defendant, Mapco, Inc.

MEMORANDUM OPINION

Before H. DALE COOK, United States District Judge

Pursuant to the provisions of §16(b) of the Securities and Exchange Act of 1934, 15 U.S.C. §78(p) (1964), this action was brought as a derivative suit initiated by a shareholder of the nominal Defendant, Mapco, Inc. Section 16(b) prohibits the unfair use of information obtained by a director, officer or principal shareholder as an "insider" of the issuing corporation. Where an "insider" has gained "short swing" profits by a sale or purchase or purchase or sale of any equity security of the corporate issuer within a period of less than six months, the profits from such unauthorized use of "inside" information are recoverable by the issuing corporation and inure to its benefit.

This action was filed on February 22, 1974, in the United States District Court for the Southern District of New York. The Defendants filed a Motion to Dismiss or Motion to Transfer. On June 11, 1974, without ruling on the Motion to Dismiss, the New York Court transferred the case to the Northern District of Oklahoma on the stipulation and agreement of all the parties.

The pre-trial order filed on October 31, 1974, granted leave to the Defendants to enlarge their Motion to Dismiss into a Motion for Summary Judgment. Pursuant to Rule 56, Federal Rules of Civil Procedure, the Defendants have moved for summary judgment. One of the grounds now asserted by the Defendants in support of their motion is that the two-year Statute of Limitations expired prior to the transfer of the case from the Southern District of New York to this Court. The Defendants assert that the action was wrongfully brought in New York because no venue existed and that the Defendants' motion must be sustained since the Statute of Limitations now bars this action. The expanded Motion for Summary Judgment also asserts that the Defendant, Donald B. Ross, did not dispose of the securities issued to him by Mapco, Inc., in a manner which constituted transactions prohibited by §16(b).

The Complaint alleges that the Defendant, Donald B. Ross, purchased 2,516 shares of Mapco common stock on March 24, 1972, and that he sold 100 shares of Mapco common stock on February 29, 1972, 200 shares on February 28, 1972, 200 shares on March 6, 1972, 400 shares on March 9, 1972, and 200 shares on March 23, 1972, while serving as Financial Vice-President of Mapco, Inc. In support of their Motion for Summary Judgment the Defendants admit that the transactions alleged in the Complaint are true except that the transactions alleged do not constitute a sale and purchase as proscribed by §16(b).

The Plaintiff responded to the Defendants' Motion for Summary Judgment with a brief wherein the Plaintiff consents to a partial summary judgment as to the transaction of March 23, 1972, concerning the disposition of 200 warrants. The Plaintiff stands on the position that the remaining transactions constitute a "sale and purchase" and that the Defendant, Ross, is indebted to the issuing corporation for the unauthorized profits which he gained as an "insider". The Plaintiff asserts that the record will support summary judgment in favor of the Plaintiff as to the remaining issues before the Court. (Pages 2 and 34 of Plaintiff's Memorandum in Opposition to Motion for Summary Judgment).

On April 3, 1975, a hearing was held before the Court. Counsel for the parties presented arguments on all issues pending in the case. By agreement of the parties the deposition of Donald B. Ross was admitted into the record to be considered as evidence by the Court in resolving the questions presented. Both Plaintiff and Defendants declared an intent to rest upon the facts in the record. In addition to the consideration of counsels' statements of resting on the record, the Court has determined that this cause is properly before the Court on a Motion for Summary Judgment since no dispute exists as to the material facts provided in the record. Frey v. Frankel, 361 F2d

437 (10th Cir. 1966); Norton v. Lindsay, 350 F.2d 46 (10th Cir. 1965); Singer V. Rehm, 334 F.2d 240 (10th Cir. 1964). The Court has carefully considered both the oral and written arguments of counsel, and has reviewed the entire record and is fully advised in the premises. Each Motion for Summary Judgment has been cautiously evaluated. For the following reasons the Court is convinced that summary judgment should be granted:

- 1). The parties have expressly declared an intent to rest entirely on the record.
- 2). Both parties have stipulated that they have no evidence to controvert issues which normally constitute triable fact issues, H. B. Zachry Co. v. O'Brien, 378 F.2d 423 (10th Cir. 1967).
- 3). The Plaintiff has no evidence to dispute the Defendants' contention that the value of the warrants exchanged by the Defendant, Ross; is the value of Mapco Common Stock on the date of the exchange. When the statements of value are viewed in a light most favorable to the position of the Plaintiff no issue of fact is raised to controvert the value as established by the affidavit and deposition filed in the record. United States v. Diebold, 369 U.S. 654 (1962); American Mfrs. Mut. Ins. Co. v. American Broadcasting - Paramount Theatres, Inc., 388 F.2d 272 (2nd Cir. 1967).
- 4). The interpretation of the terms "sale and purchase" is a proper determination of the Court. Kern County Land Co. v. Occidental Petroleum Corp. 411 U.S. 582 (1973).

The legal issues before the Court arise from the following facts. During the period from March 17, 1964, the date of the initial issue of the warrants, to a time six months prior to January 1, 1972, the Defendant, Donald B. Ross, purchased 3616 warrants of Mapco, Inc. Under the terms of the initial issue the warrants were automatically converted into one-half share of Mapco common stock on April 1, 1972, the date of expiration. As an alternative one warrant plus \$9.00 could be exchanged for one full share of Mapco common stock prior to the expiration day. The warrants had an anti-dilution clause whereby the warrant-holders were protected against the issuance of Mapco common stock at a consideration of less than \$18.00 per share. During the period of February 29, 1972, and March 23, 1972, the Defendant,

Ross, while serving as Financial Vice-President of Mapco, Inc., exercised 1100 warrants and sold 900 shares of Mapco common stock through the New York Stock Exchange. On March 24, 1972, Ross exercised 2516 warrants and received 2516 shares of Mapco common stock. These facts are undisputed.

The Court must first consider whether this action was brought within the period allowed by the Statute of Limitations. In order to resolve this question a determination as to proper venue in the New York Court must be made. The Complaint was filed in the New York Court on February 22, 1974. The transaction last complained of by the Plaintiff occurred on March 9, 1972. The case was transferred to the Northern District of Oklahoma on the 11th day of June, 1974. Since the case was transferred after the Statute of Limitations had run, the question of whether the cause was properly brought within the statutory period is dependent upon the New York venue. If venue did not lie in the New York Court then the application of §16(b) to these facts is a futile engagement.

Section 27 of the Securities and Exchange Act of 1934 (15 U.S.C. §78aa) provides in part:

"The district courts of the United States, and the United States courts of any Territory or other place subject to the jurisdiction of the United States shall have exclusive jurisdiction of violations of this chapter Any criminal proceeding may be brought in the district wherein any act or transaction constituting the violation occurred. Any suit or action to enforce any liability or duty created by this chapter or rules and regulations thereunder, or to enjoin any violation of such chapter or rules and regulations, may be brought in any such district or in the district wherein the defendant is found or is an inhabitant or transacts business, and process in such cases may be served in any other district of which the defendant is an inhabitant or wherever the defendant may be found."

In Blau v. Lamb, 20 F.R.D. 411 (S.D.N.Y. 1957) the court overruled the defendant's motion to dismiss for lack of jurisdiction over the person or the subject matter in an alleged 16(b) violation though none of the defendants were found or were inhabitants or

transacted business in the Southern District of New York. The plaintiff was a Delaware Corporation with the principal place of business in Ohio and all of the defendants were domiciled in Ohio. The court founded jurisdiction on the clause of §78aa which states, ". . . act or transaction constituting the violation occurred," and concluded that transactions on the New York Stock Exchange were enough contact to provide the New York court with jurisdiction.

In an action for attorney's fees for recovery of short swing profits in Blau v. Tool Research & Engr. Corp., 330 F. Supp. 1374 (S.D.N.Y. 1971), the court said in the following language that this action could be maintained in the district where the transactions were effectuated and where the claim arose:

"The salient fact, . . . , is that the unlawful insider short-swing transactions were effectuated over the American Stock Exchange, located in the Southern District. Although trading over a national exchange is insufficient to satisfy the transaction of business clause of §78aa, . . . , it appears settled that the consummation of an illegal short-swing transaction over a national exchange satisfies the act or transaction constituting the violation clause of §78aa."

Numerous cases have held that if such an act is committed venue lies. See, e.g., Peyser v. Meehan Fund, Inc., 264 F.Supp. 1 (S.D.N.Y. 1966); Sher v. Johnston, 216 F.Supp. 123 (S.D.N.Y. 1963); Blau v. Lamb, supra. In authorizing the brokerage firm of Harris, Upham & Co. to dispose of the warrants, the defendant, Ross, clearly set in motion the events which resulted in the acts and transactions through the New York Stock Exchange which resulted in the disposition of the defendant's stock. In authorizing his agent, Harris, Upham & Co., to dispose of his warrants, Ross subjected himself to the contacts with New York incurred by his agents in effecting the transactions. (Exhibit A of the Answers to Interrogatories Addressed to Defendant Donald B. Ross; Page 7 of The Deposition of Donald B. Ross).

It is the finding of the Court that this action was properly brought in the Southern District of New York, that the New York Court had proper venue over this cause, and, therefore, that this Court has appropriate jurisdiction over the subject matter and the parties since the action was instituted prior to the expiration of the Statute of Limitations and the Defendants have been properly served with process.

Having determined that venue was proper in New York and that the Court has jurisdiction over this matter, the Court next considers the question of whether these transactions constitute a violation of §16(b). The latest teaching from the United States Supreme Court on the application of §16(b) is Kern County Land Co. v. Occidental Petroleum Corp., 411 U.S. 582 (1973) where Mr. Justice White distinguished the application of §16(b) when the transaction is "traditional" from those transactions which are unorthodox.

"Although traditional cash-for-stock transactions that result in a purchase and sale or a sale and purchase within the six-month, statutory period are clearly within the purview of §16(b), the courts have wrestled with the question of inclusion or exclusion of certain 'unorthodox' transactions."

Kern at 593.

In the facts before the Court and upon which facts the parties have rested, the Defendant, Ross, submitted \$9.00 plus one warrant to his broker who exercised rights conferred by the warrant and received a share of Mapco common stock. The common stock was then sold and the proceeds applied to the Ross account. This transaction does not fall under the traditional "cash-for-stock" purchase. The Defendant owned the warrant at least six months prior to any of the exchanges which are the subject of this lawsuit. He did not tender the purchase price in cash in order to acquire the common stock but rather tendered \$9.00 plus one warrant as the terms of the issue dictated and received one share of Mapco common stock. Upon receiving the stock the broker sold it and credited the proceeds to the account

of Ross. Clearly this transaction falls within the classification of "unorthodox" as provided in Kern and requires that the pragmatic test be utilized to determine whether these transactions are prohibited. The pragmatic test directs the Court to look at all of the circumstances in determining whether §16(b) applies. Roberts v. Eaton, 212 F.2d 82 (2nd Cir. 1954), cert. denied, 348 U.S. 827 (1954); Ferraiolo v. Newman, 259 F.2d 342 (6th Cir. 1958), cert. denied, 359 U.S. 927 (1959); Blau v. Max Factor & Co., 342 F.2d 304 (9th Cir. 1965), cert. denied, 382 U.S. 892 (1965); Blau v. Lamb, 363 F.2d 507 (2nd Cir. 1966), cert. denied, 385 U.S. 1002 (1967); Petteys v. Butler, 367 F.2d 528 (8th Cir. 1966), cert. denied, 385 U.S. 1006 (1967).

The facts of each case must be set in the context of the guidelines of Kern.

"In deciding whether borderline transactions are within the reach of the statute, the courts have come to inquire whether the transaction may serve as a vehicle for the evil which Congress sought to prevent-the realization of short-swing profits based upon access to inside information-thereby endeavoring to implement congressional objectives without extending the reach of the statute beyond its intended limits."

Kern at 594-595.

The terms "sale and purchase" must be interpreted in light of the activity which may provide the speculative abuse which the Congress intended to prevent. Reliance Electric Co. v. Emerson Electric Co., 404 U.S. 418 (1972). In applying the terms "sale and purchase" to the facts, the Court must consider the standard espoused in Ferraiolo, supra, which states:

"Every transaction which can reasonably be defined as a purchase will be so defined, if the transaction is of a kind which can possibly lend itself to speculation encompassed by Section 16(b)."

Ferraiolo at 345.

The Court must now apply the law as set out above to the facts of this case. The warrants held by the Defendant, Ross, were convertible at any time prior to April 1, 1972 for one share of Mapco common stock. The convertibility of the warrants was protected against dilution by a provision which prevented

the issuance of Mapco common stock at a consideration of less than \$18.00 per share. The uncontroverted affidavit of Alan C. Greenberg, a general partner of Bear, Stearns & Co., the principal underwriters of these warrants, supports the premise that the value of the warrants plus \$9.00 equaled the value of Mapco common stock on the dates of the exchanges and at least one year prior to these dates when the affiant states that the firm of Bear, Stearns & Co. would have exchanged the warrants or paid cash for the warrants on the basis of the market value of the Mapco, Inc., common stock. (Exhibit A of Defendant Donald B. Ross' Brief in Support of Expanded Motion to Dismiss). The deposition of Donald B. Ross supports the conclusion that the value of the warrants was equal to the value of the common stock on the date of the exchange when the witness states that he would have received the same number of dollars from Bear, Stearns & Co. that he received from Harris, Upham & Co. if he had sold only warrants as warrants to Bear, Stearns & Co. (Page 12 of The Deposition of Donald B. Ross). Ross held the economic equivalent of the Mapco common stock. A transfer of the warrant plus \$9.00 for one share of Mapco common stock cannot be considered a "purchase" where the securities involved were economic equivalents. The conversion did not result in a material change in the proportional equity ownership of Mapco or in an opportunity for profit which had not existed since March 17, 1964. Ferraiolo, supra, at 346.

The exchange of the warrant for Mapco common stock and the subsequent sale of common stock was a simultaneous transaction. The brokerage firm of Harris, Upham & Co. held the warrant as cover for the equivalent of the securities sold. Though the warrants were held in street name, the brokerage firm was in a position to order them out in street name or the name of the purchaser. (Page 14 of The Deposition of Donald B. Ross). In the transactions subject to this suit the warrants were

ordered out in street name, the common stock credited to the street name and then sold with the proceeds credited to the account of Ross as if he had sold warrants. The transaction in exchanging warrants for stock was simultaneous with the sale of stock so that no opportunity to speculate between the exchange of the warrant and the sale of the equivalent stock presented itself. It is the simultaneous nature of this transaction that takes it out from under the speculative abuse which Congress intended to prevent in enacting §16(b). Had Ross held the stock for any period of time after the exchange, a strong presumption of speculative abuse would immediately exist. With the exchange and sale occurring in one unified transaction such as is present here, there exists no possibility for speculative abuse. It is interesting to note that Mapco common stock closed at \$41.00 on February 28, 1972, the first day of the subject transactions. On March 24, 1972, the last day of the subject transactions, the stock had gained 2-1/2 points in closing at 43-1/4. The stock reached a high of 52-1/4 on June 20, 1972, and on September 25, 1972, six months after the last of the subject transactions, the stock closed at 24-3/8 with a stock split having occurred on September 14, 1972. (Defendants' Exhibit 3 of The Deposition of Donald B. Ross). These listings show that Ross would have gained substantially by holding his common stock until June of 1972 where he would have gained more than ten points over his first sale of common stock. If he had held the stock until six months after the final exchange of warrants, he stood to gain more than seven points over his first exchange. The use of "inside" information would appear under these facts to have prompted Ross to hold for higher gain. These conditions strongly suggest that no speculative abuse existed in the exercise of the warrants and simultaneous sale of the stock.

Each warrant holder held the power to receive the market value of the Mapco common stock at least one year prior to

the expiration date. (Affidavit of Alan C. Greenberg). There was no opportunity for speculative abuse where all warrant-holders were subject to market fluctuations. Ross held slightly in excess of 1% of all the warrants which were issued. (Exhibit B of Defendant Donald B. Ross' Brief in Support of Expanded Motion to Dismiss). Any "inside" information gained by Ross because of his position as Financial Vice-President would have been ineffectual under these circumstances to control the market for his own advantage.

According to the uncontroverted affidavit of G. Dean Cosgrove, Treasurer of Mapco, Inc., less than 2% of those warrants issued remained unexercised as of March 31, 1972. (Exhibit B, supra). All warrant-holders were thus in the same position as Ross. Substantially all of the warrant-holders converted rather than to suffer a considerable and needless loss. No warrant-holder was vulnerable to an unfair advantage because Ross may have had access to "inside" information. At the time during which Ross converted his warrants he had little choice to prevent a substantial economic loss. He began his conversion within a month of the expiration date. The exchange was involuntary as the exercise of nearly all of the issued warrants indicates. Petteys, supra. Since all of the warrant-holders stood in an equal position, no advantage was taken of them by the conversion of the warrants held by Ross. Shaw v. Dreyfus, 172 F.2d 140 (2nd Cir. 1949) cert. denied, 337 U.S. 907 (1949). To have waited beyond the expiration date would have rendered the warrant economically unequal to the common stock and resulted in a considerable loss to the holder. It is difficult for the Court under the circumstances of this case to determine in any manner how inside information could possibly have lent itself to the speculative abuse prohibited by §16(b). To find otherwise would penalize a holder of securities for following sound economic principles merely because he serves the corporation in

an official capacity, and thereby has access to inside information.

Where there is no possibility of speculative abuse of "inside" information, an involuntary nature to the transaction, a simultaneous transfer of warrants for stock and sale of stock, and an economic equivalent between the warrant and the stock received in the exchange such as exists in this case, §16(b) should not be applied to render an injustice to the defendant. The Motion of Mapco, Inc., and Donald B. Ross for Summary Judgment should be and is hereby sustained.

It is so Ordered this 10th day of April, 1975.



H. DALE COOK

United States District Judge

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

RICHARD MORALES,
Plaintiff,

vs.

MAPCO, INC., and
DONALD B. ROSS,

Defendants.)

No. 74-C-271

E I L E D

APR 10 1975


Jack C. Silver, Clerk
U. S. DISTRICT COURT

J U D G M E N T

Based upon the Memorandum Opinion filed herein on
the 10th day of April, 1975,

IT IS ORDERED, ADJUDGED AND DECREED that the Motion
for Summary Judgment of defendants, Mapco, Inc., and Donald B.
Ross, be granted and Judgment be entered herein in favor of
defendants, at the cost of the plaintiff, and that plaintiff
Morales' Motion for Summary Judgment be denied.

Dated this 10th day of April, 1975.


H. Dale Cook
United States District Judge

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

ROBERT J. STANTON, TRUSTEE
of Tulsa Crude Oil Purchasing
Company and its Consolidated
Subsidiaries,

Plaintiff,

-vs-

TIPPERARY LAND AND EXPLORATION
CORPORATION, a corporation, MGF
OIL CORP., a corporation, BTA
OIL PRODUCERS, a co-partnership,
READ & STEVENS, INC., a corpora-
tion, STOLTZ, WAGNER AND BROWN,
a partnership, (formerly STOLTZ AND
CO., INC.), WESTERN CRUDE OIL, INC.,
a corporation, and AMOCO PIPELINE
COMPANY, a corporation,

Defendants.

No. 74-C-102 ✓

FILED
APR 9 1975
Jack C. Silver, Clerk
U. S. DISTRICT COURT

O R D E R

Defendant herein, Amoco, having filed its Motion for Summary Judgment, the Court having heard oral arguments of counsel and being fully advised in the matter FINDS:


The Plaintiff, Trustee, requesting permission to file a brief in this matter, having done so, states in Proposition III thereof that he does not contest Amoco's Second Proposition which provides:

"AMOCO CANNOT BE LIABLE FOR AIDING A PREFERENTIAL TRANSFER UNDER SECTION 60 BECAUSE IT ACTED AT ALL TIMES AS A COMMON CARRIER AND IN ACCORDANCE WITH THE UNIFORM COMMERCIAL CODE."

Plaintiff acknowledges he is in possession of no facts which would contradict this proposition.

The Court therefore sustains Amoco's Motion for Summary Judgment as conceded by the Plaintiff for the reason that said Defendant acted at all times as a common carrier and in accordance with the Uniform Commercial Code.

It is so Ordered this 9TH day of April, 1975.


H. Dale Cook
United States District Judge

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FRED RIZK,

Plaintiff,

v.

F. W. WOOLWORTH COMPANY and
THE B. F. SAUL REAL ESTATE
INVESTMENT TRUST,

Defendants,

and

THE HANSON DEVELOPMENT COMPANY,
THORNTON ASSOCIATES and
CROSSTOWN ASSOCIATES,

Defendants and
Third Party Plaintiffs,

v.

MAURICE FERRIS,

Third Party Defendant.

No. 74-C-142

FILED
APR 8 1975

Jack C. Silver, Clerk
U. S. DISTRICT COURT

ORDER FOR JUDGMENT ON THE PLEADINGS

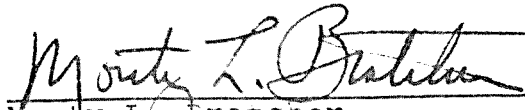
This cause came on to be heard on the Motion of B. Francis Saul, II and Garland J. Bloom, Jr., Trustees of the B. F. Saul Real Estate Investment Trust, defendants herein, for judgment on the pleadings, and it appearing to the Court from the pleadings and briefs filed herein that the complaint fails to state a claim against said defendants upon which relief can be granted and it further appearing that the plaintiff herein consents that judgment be entered on the pleadings in favor of said defendants, it is

ORDERED, that the complaint be and it is hereby dismissed as to the defendants B. Francis Saul, II and Garland J. Bloom, Jr., Trustees of the B. F. Saul Real Estate Investment Trust, and that judgment be entered as to said defendants dismissing the action with prejudice.

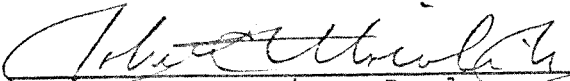
Dated April 8th, 1975.


United States District Judge

APPROVED:



Monty L. Bratcher
Attorney for the Defendants
B. F. Saul, II and Garland J.
Bloom, Jr., Trustees of The
B. F. Saul Real Estate
Investment Trust



Watson, McKenzie & Dunlevy
Attorneys for Plaintiff

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

JANIE MCGHEE,

Plaintiff,

-vs-

INDEPENDENT SCHOOL DISTRICT #4
DANIEL D. DRAPER, Superintendent;
DANIEL D. DRAPER; LEROY CHAMBERLAIN;
DALE BROWN; EDWARD BILLUPS; J. W.
PUCKETT and FLOYD E. MOTT,
Defendants.

No. 74-C-326

FILED

APR 8 1975

Jack C. Silver, Clerk
U. S. DISTRICT COURT

O R D E R

The Court has for consideration herein the Motion to Dismiss filed by the Defendant, Independent School District No. 4, the briefs in support and in opposition thereto, and being fully advised in the premises, FINDS:

The Plaintiff in this action alleges that as a direct consequence of unfounded rumors and malicious gossip Defendants refused to renew her teaching contract. According to Plaintiff, although she made repeated demands to be informed as to her accusers and the exact charges and also requested a public hearing, all such requests were denied. She therefore claims denial of due process under the Fourteenth Amendment and violation of 42 U.S.C. 1982. Plaintiff prays that she be awarded judgment from each of the Defendants in the sum of \$20,000 and that she be immediately reinstated.

Defendant School District's Motion for Dismissal is based upon two premises. First, the School District contends it is a municipal corporation and as such is not a "person" within the meaning of the statute relied upon by Plaintiff. Second, the School District contends it is immune from suit in the Federal Court by virtue of the Eleventh Amendment to the United States Constitution.

The Eleventh Amendment provides: "The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens of subjects of any Foreign State."

It is well established that under this constitutional constraint on the exercise of federal judicial power, an unconsenting State is also immune from suits brought in Federal Courts by its own citizens. Employees of Department of Public Health and Welfare, Missouri, v. Department of Public Health and Welfare, Missouri, 411 U.S. 279 (1973); Mobil Oil Corp. v. Kelley, 493 F.2d 784 (5th Cir. 1974); Board of Regents of University of Nebraska v. Dawes, 370 F.Supp. 1190 (D.C.Neb.1974); Hahn v. Ingram, 362 F.Supp. 982 (D.C.Del. 1973); Parker v. Mandel, 344 F.Supp. 1068 (D.C.Md. 1972).

Defendant School District relies most heavily on Harris v. Tooele County School District, 471 F.2d 218 (10th Cir. 1973), involving a suit against a school district for personal injuries resulting from an alleged negligently structured and supervised gate on Tooele County High School's parking lot. In Harris the Court first noted that the determination of whether a suit against a governmental subdivision is actually a suit against the State must be by reference to the applicable state law, in that case, the law of the State of Utah. The Harris Court therefore looked to holdings of the Courts of Utah which were to the effect that "School districts are instrumentalities of the state acting in its behalf in educating children and as such partake of sovereign immunity. . . . they are created exclusively for school purposes and are mere agencies of the state."

In respect to this relationship of a school board to the State, the law of Oklahoma closely parallels that of Utah. In Dahl v. Hughes, 347 P.2d 208 (Okla. 1959) the syllabus by the

Court states that: "The general rule in this State is that a school district, or school board, is not subject to liability for injuries to pupils of public schools suffered in connection with their attendance thereat, since such district . . . in maintaining schools acts as an agent of the State and performs a purely public or governmental function, or duty, imposed upon it by law for the benefit of the public, for which it receives no profit or advantage. (Emphasis Added). This viewpoint was again espoused in Tryon Dependent School District No. 125 v. Carrier, 474 P.2d 131 (Okla. 1970), the Court stating that "Public education is a function of the State. Article 13, Sec. 1, Oklahoma Constitution." It is also noted that in Article 10, Sec. 26 of the Oklahoma Constitution regarding limitations of indebtedness of political subdivisions, school districts, as subdivisions of the State, are subject to said limitations.

Another test employed in Harris to determine whether Eleventh Amendment immunity applies is the manner in which the subdivision is financed, the Court stating that: "When it is apparent a judgment against a political subdivision will ultimately reduce state funds, the action is in essence one for recovery of money from the state."

Pursuant to the Oklahoma Constitution, the Legislature is empowered to establish and maintain a system of free public schools. Oklahoma Constitution, Article 13, Sec. 1. In addition, the Legislature is directed to raise and appropriate funds for the annual support of the common schools of the State. Such money, it is directed, shall be allocated to the various school districts in the manner and by a distributing agency to be designated by the Legislature. Oklahoma Constitution, Article 13, Sec. 1a. In Oklahoma, as was the case in Utah, the operating and maintaining of school programs is divided between the State and the school districts and involves state appropriated revenues. 70 O.S.1971 Sec. 18-109. The Harris Court stated that in light

of these factors "Clearly the possibility exists that a money judgment rendered in federal court against (the) School District might be paid at least partially out of State funds," and therefore, the Court was compelled by the Eleventh Amendment to dismiss the case.

The Tenth Circuit ruling in Harris is amply supported by other Courts. In Wihtol v. Crow, 309 F.2d 777 (8th Cir. 1962), the Plaintiff sued for copyright infringement of a song, which had been copied by the school choral instructor, seeking to obtain a judgment against the school district for damages. The Court stated that the school district was an instrumentality of the State, constituting a part of its educational system engaged in performing a State governmental function under State law and at State expense. Noting the Plaintiff was seeking to obtain a judgment against the school district for damages payable out of public funds, the Court held that the trial court was without jurisdiction to entertain the action as against the school district.

O'Neill v. Early, 208 F.2d 286 (4th Cir. 1953) involved an action by a former school teacher against the county superintendent of schools and the county school board seeking recovery on the ground that the defendants were guilty of breach of contract in failing to re-employ Plaintiff as a teacher in the schools. The Court dismissed the action holding: "It is perfectly clear that such a suit is one against the state which falls within the inhibition of the 11th Amendment." The Court quoted from Ex Parte State of New York, No., 256 U.S. 490 (1920), Mr. Justice Pitney stating the rule:

"As to what is to be deemed a suit against a state, the early suggestion that the inhibition might be confined to those in which the state was a party to the record has long since been abandoned, and it is now established that the question is to be determined not by the mere names of the titular parties but by the essential nature and effect of the proceeding, as it appears from the entire record."

The dismissal of a similar breach of contract action brought by

a teacher was sustained in Byrd v. Steiner, 284 F.2d 341 (4th Cir. 1960).

In Gainer v. School Board of Jefferson County, 135 F.Supp. 559 (D.C.Ala. 1955) the issue involved damages pursuant to the denial of Fourteenth Amendment rights. The Court stated that to hold that the School Board, as a corporate entity, would be liable in pecuniary damages, to be satisfied out of public funds, for the tortious conduct of its individual members in wilfully and arbitrarily discriminating against any class of teachers in establishing and paying their salaries in violation of the Fourteenth Amendment would be to authorize a suit against the State of Alabama without its consent, proscribed by the Eleventh Amendment.

Plaintiff alleges that since the State of Oklahoma, in 70 O.S.1971 Sec. 5-105, authorized a school district to sue and to be sued, the immunity afforded by the Eleventh Amendment is not available to the school district. The same argument was apparently raised in O'Neill v. Early, supra, in which the Court held that "The fact that the state has authorized the defendant school board to sue and be sued is immaterial, since it has not consented to suit in the federal court."


As stated, Plaintiff has asked for damages against each defendant in the amount of \$20,000 which action is prohibited by the Eleventh Amendment based on the above cases. Although her prayer also includes a request for injunctive relief, it is questionable whether this could form a sufficient basis to retain the school district. In Commonwealth of Pennsylvania v. Glickman, 370 F.Supp. 724 (D.C.Pa. 1974), the Court was asked to determine whether a city was a proper party under 42 U.S.C. 1981, or should be dismissed. The Court dismissed the city noting that "little or no prejudice can result to the plaintiff's by virtue of the city's dismissal because the various city employees who exercise responsibility over (the department involved) have been named

as defendants in this action. The granting of equitable relief will be just as effective applied to the defendant city employees, as it would if the city per se were retained." Following the same reasoning, any injunctive relief granted Plaintiff in this case will be just as effective applied to the school superintendent and members of the Board of Education, as it would if the school district were retained. Therefore, and in light of the Eleventh Amendment considerations, Independent School District No. 4 should be dismissed from this action. Dismissal of the school district pursuant to Eleventh Amendment considerations makes moot the question of whether the school district is a "person" within the meaning of the statute.

Plaintiff asks that if pursuant to the Eleventh Amendment this Court sustains the school district's Motion to Dismiss, that this Court permit Plaintiff to proceed against the school district under the doctrine of pendent jurisdiction. The concept of pendent jurisdiction under a federal claim to any nonfederal claim against the same defendant if the federal question is substantial and the federal and nonfederal claims constitute a single cause of action. Fullerton v. Monongahela Connecting R. Co., 242 F.Supp. 622 (D.C. Pa. 1965). In addition, such jurisdiction may be retained even though it is eventually determined that no cause of action is made out under federal grounds. Taussig v. Wellington Fund, Inc., 187 F.Supp. 179 (D.C.Del. 1960). However, when a federal court is precluded by the Eleventh Amendment from hearing a suit against a school district as an agency of the State, the doctrine of pendent jurisdiction can in no way eradicate this preclusion.

IT IS HEREBY ORDERED ADJUDGED AND DECREED THAT the Motion to Dismiss of Defendant School District No. 4 be sustained.

It is so Ordered this 7th day of April, 1975.


H. DALE COOK
United States District Judge

FILED
IN OPEN COURT

APR 8 1975

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

Jack C. Silver
Clerk, U. S. District Court

UNITED STATES OF AMERICA and)
DON TIBBETTS, Revenue Officer,)
Internal Revenue Service,)

Petitioners,)

vs.)

EDDIE WEDEL,)

Respondent.)

Civil No. 74-C-593

ORDER DISCHARGING RESPONDENT
AND DISMISSAL

On this 8th day of April, 1975, Petitioners' Motion To Discharge Respondent And For Dismissal came for hearing and the Court finds that Respondent has now complied with the Internal Revenue Service Summons served upon him October 9, 1974, that further proceedings herein are unnecessary and that the Respondent, Eddie Wedel, should be discharged and this action dismissed.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED BY THE COURT that the Respondent, Eddie Wedel, be and he is hereby discharged from any further proceedings herein and this action is hereby dismissed.

Allen E. Bonner
UNITED STATES DISTRICT JUDGE

APPROVED:

/s/ Nathan G. Graham

NATHAN G. GRAHAM
United States Attorney

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

TOMMY LEE NASH,
Plaintiff,

vs

AMERICAN AIRLINES, et al,
Defendants.

No. 74-C-491

FILED

APR 7 1975 *jun*

Jack C. Silver, Clerk
U. S. DISTRICT COURT

O R D E R

This matter coming on before the undersigned Judge of the United States District Court on the defendant's, Air Transport Local 514, Transport Workers Union of America, AFL-CIO, motion to Dismiss;

After giving consideration to the pleadings, and the motion of the defendant, Air Transport Local 514, Transport Workers Union of America, AFL-CIO, to dismiss, the Court is of the opinion and so finds that the Court does not have jurisdiction over the person of this defendant.

IT IS THEREFORE ORDERED that the motion of the defendant to dismiss for lack of jurisdiction over the person of the defendant, Air Transport Local 514, Transport Workers Union of America, AFL-CIO, be, and the same hereby is, allowed, and the action is hereby dismissed.

W. E. Jones, II
JUDGE

Certificate of Mailing

I hereby certify that on the _____ day of April, 1975, I mailed a true and correct copy of the above and foregoing Notice of Dismissal Without Prejudice by Plaintiff to Frasier & Frasier, Mezzanine Floor, Beacon Building, Tulsa, Oklahoma 74103; Overton, Lyman & Prince, 550 South Flower Street, Los Angeles, California 90017; and Benefield, Shelton, Lee, Wilson & Tyree, 2700 City National Bank Tower, Oklahoma City, Oklahoma 73102, with the proper postage thereon fully prepaid.

LAW OFFICES
JONES & JONES
1440 NORTH LANSING
TULSA, OKLAHOMA 74106
582-8217

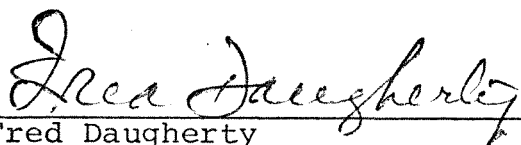
W. E. Jones, II
Waldo E. Jones, II

Remand is necessary if the additional evidence which is the object of Plaintiff's Motion is to be considered as this Court cannot on review consider evidence which has not been previously considered administratively. 42 U.S.C. §405(g) allows remand for good cause shown. Remand should be granted where no party will be prejudiced by the acceptance of additional evidence and the evidence bears on the matter in dispute.

Martin v. Richardson, 325 F. Supp. 686 (W.D. Va. 1971).

As Plaintiff's Motion is unopposed by the Defendant and as the additional evidence is relevant to the matter in dispute, the case will be remanded to the Defendant for the consideration of Plaintiff's additional evidence. Said evidence consists solely of a letter from Paul M. Atkins, M.D., dated March 3, 1975, a copy of which is attached to the Motion.

It is so ordered this 4 day of April, 1975.


Fred Daugherty
United States District Judge

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

APR 7 1975

Jack C. Silver, Clerk
U. S. DISTRICT COURT

UNITED STATES OF AMERICA and)
HOMER C. WALKER, Revenue Officer,)
Internal Revenue Service,)

Petitioners,)

vs.)

Civil No. 74-C-592

ROGER N. STRICKLAND,)

Respondent.)

ORDER DISCHARGING RESPONDENT
AND DISMISSAL

On this 7th day of April, 1975, Petitioners' Motion To Discharge Respondent And For Dismissal came for hearing and the Court finds that Respondent has now complied with the Internal Revenue Service Summons served upon him September 6, 1974, that further proceedings herein are unnecessary and that the Respondent, Roger N. Strickland, should be discharged and this action dismissed upon payment of \$98.64 costs by Respondent.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED BY THE COURT that the Respondent, Roger N. Strickland, be and he is hereby discharged from any further proceedings herein and this ^{cause of} ~~is~~ ^{and Complaints are} hereby dismissed upon payment of \$98.64 costs by said Respondent.

Allen F. Barron

UNITED STATES DISTRICT JUDGE

APPROVED:

Nathan G. Graham

NATHAN G. GRAHAM

United States Attorney

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

MINNIE SHARP,)
)
Plaintiff,)
)
vs.)
)
)
STANLEY BARBER CONSTRUCTION)
COMPANY, An Arkansas Corpor-)
ation,)
)
Defendant.) NO. 74-C-282

FILED
APR 7 1975
Jack C. Silver, Clerk
U. S. DISTRICT COURT

ORDER OF DISMISSAL

Upon the application of the plaintiff and for
good cause shown, this cause of action and Complaint is
dismissed with prejudice.



UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

PHILLIPS PIPE LINE COMPANY,
a corporation,

Plaintiff,

vs.

NO. 75-C-94 ✓

A 50' Wide Easement and
Right-of-Way for a Crude Oil
Pipeline to be Located upon the
South Half of the Northeast Quarter
(S/2 NE/4) of Section 22, T24N, R5E,
Pawnee County, Oklahoma;

The United States of America, as a
Matter Affecting the Title to
Certain Osage Indian Land subject
to Restraints on Alienation;

Robert Smith, the sole heir and devisee
of George Smith, an unallotted
Osage Indian (restricted);

AND

Fred Summy, Lessee,

Defendants.

FILED
IN OPEN COURT

APR 7 1975

Jack C. Silver, Clerk
U. S. DISTRICT COURT

APPLICATION FOR ORDER OF DISBURSAL

COMES Now the United States of America and Robert Smith, defendants herein, and apply to the Court for an order disbursing certain funds on deposit in the Registry of this Court for the benefit of the said defendants, and advise the Court as follows:

1. Title to the property involved in this action is vested in George Smith, an unallotted Osage Indian, but such property is subject to restraint on alienation imposed by the United States of America, through the Department of Interior, Bureau of Indian Affairs.

2. Said George Smith is now deceased, and probate of his estate is not concluded.

3. Robert Smith is the sole heir and devisee of George Smith, deceased, and is also executor of the estate of said deceased.

4. Pursuant to Judgment entered in this case, based upon a stipulation of the parties, the Plaintiff has deposited in the Registry of this Court the sum of \$1,040.00, which sum represents just compensation for the interest of the said Robert Smith taken in this action.

Defendants therefore pray that this Court enter its order directing the Clerk to disburse the said deposit of just compensation as follows:

To - Bureau of Indian Affairs, for the benefit
of Robert Smith, executor of the estate
of George Smith, deceased.

UNITED STATES OF AMERICA

NATHAN G. GRAHAM
United States Attorney

Hubert A. Marlow

HUBERT A. MARLOW
Assistant U. S. Attorney

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT
OF OKLAHOMA

PHILLIPS PIPE LINE COMPANY,
a corporation,

Plaintiff,

v.

A 50' Wide Easement and
Right-of-Way for a Crude Oil
Pipeline to be Located upon the
South Half of the Northeast Quarter
(S/2 NE/4) of Section 22, T24N, R5E,
Pawnee County, Oklahoma;

The United States of America, as a
Matter Affecting the Title to
Certain Osage Indian Land subject
to Restraints on Alienation;

Robert Smith, the sole heir and devisee
of George Smith, an unallotted
Osage Indian (restricted);

and

Fred Summy, Lessee,

Defendants.

NO. 75-C-94

FILED
in open Court
APR 7 1975
Jack C. Silver, Clerk
U. S. DISTRICT COURT

JOURNAL ENTRY OF JUDGMENT

Now on this 7th day of April, 1975 this matter comes on for hearing, pursuant to the order of this Court, on the complaint in condemnation filed herein by plaintiff on March 13, 1975. Plaintiff appears by one of its attorneys, Stephen R. Johnson, the defendants Robert Smith and The United States of America appear by their attorney, Hubert Marlowe, and the defendant, Fred Summy, appears not. Upon consideration of the pleadings, affidavits and other matters on file herein, and being well advised of the premises, the court finds that the parties have entered into a written stipulation as follows:

1. Notice of the captioned proceeding in eminent domain was timely and properly served on all defendants herein and all parties are properly before the court.

2. All of the allegations contained in the complaint in condemnation filed herein by plaintiff, Phillips Pipe Line Company, on March 13, 1975, are true.

3. Plaintiff and defendant, Fred Summy, lessee, have reached an amicable agreement and settlement regarding all of the damages to which said defendant is or may be entitled by reason of the construction

of the pipeline for which right-of-way is sought to be condemned herein, said damages have been paid by plaintiff, and receipt thereof is acknowledged by said defendant.

4. The fair market value of the rights sought to be condemned herein by plaintiff as against the defendants, United States of America and Robert Smith is One Thousand Forty Dollars (\$1,040.00) said amount being thirteen dollars (\$13.00) per lineal rod of pipeline to be constructed within the easement described in said complaint in condemnation.


5. Upon the payment by plaintiff of the sum of \$1,040.00 into the registry of the United States District Court for the Northern District of Oklahoma for the use and benefit of the defendants, United States of America and Robert Smith, the court may enter a judgment and order vesting in plaintiff, Phillips Pipe Line Company, title to the easement and right-of-way sought to be condemned herein and as is described in said complaint in condemnation.

The court further finds that the plaintiff, Phillips Pipe Line Company, did, on April 7, 1975, pay into the registry of the United States District Court for the Northern District of Oklahoma the sum of One Thousand Forty Dollars (\$1,040.00) for the use and benefit of the defendants Robert Smith and the United States of America, and that, pursuant to the terms of said stipulation, title to the right-of-way sought to be condemned herein and as described in the complaint in condemnation should be vested and confirmed in plaintiff.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED, that title be, and the same is hereby, vested in plaintiff, Phillips Pipe Line Company, to a permanent easement fifty (50) feet in width across the land and premises of the defendants for plaintiff's use to construct, maintain, operate, cathodically protect, inspect, alter, repair, relay and remove a crude oil pipeline, over, through and under said property and premises, along the route shown on Exhibit "A" attached hereto, and incorporated herein by reference, together with the rights of ingress and egress to and from said pipeline easement for the purposes aforesaid with the owners of said land to retain the full use and enjoyment of said property and premises subject to the easement rights

obtained herein by plaintiff, and except further that the defendants shall not build, create or construct, nor permit others to build, create or construct any lakes, ponds, buildings or other structures of a permanent nature, upon, on or over said permanent easement, and further that plaintiff shall have the right to cut, trim and keep clear, all trees, brush and other obstructions that may injure, endanger or interfere with the operation, maintenance or removal of said pipeline, and further that plaintiff shall pay all damages to fences, crops and premises which may be injured by reason of maintaining, operating or removing said pipeline, and further that said easement shall be binding upon the plaintiff and defendants and their respective heirs, successors and assigns.

Dated this ____ day of April, 1975.



Judge of the United States District
Court for the Northern District
of Oklahoma

Approved as to Form:

UNITED STATES OF AMERICA

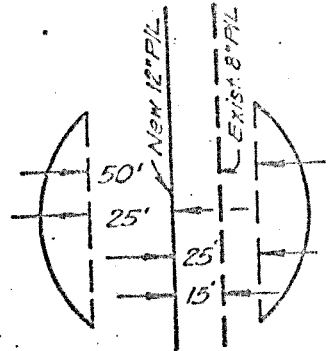
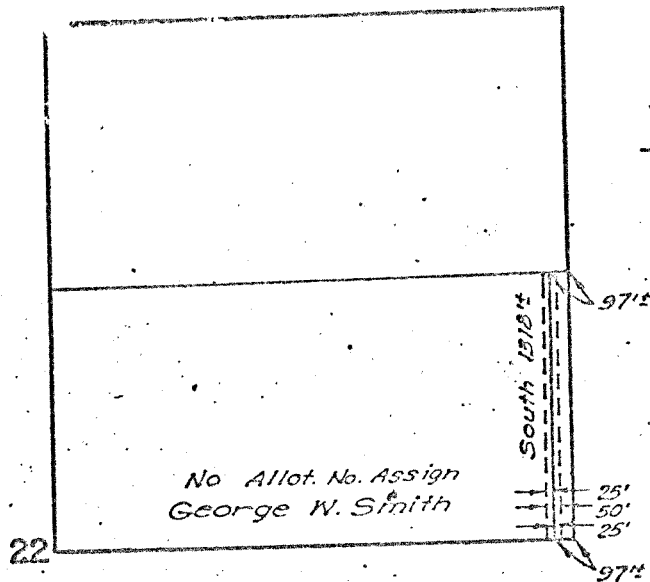
By _____
Hubert Marlowe, Asst. U.S. Attorney
Northern District of Oklahoma

By _____
Superintendent, Osage Indian Agency
Bureau of Indian Affairs

By _____
Field Solicitor, Osage Indian Agency
Bureau of Indian Affairs

PHILLIPS PIPE LINE COMPANY

By _____
Stephen R. Johnson



DESCRIPTION OF PIPE LINE ROUTE

Beginning at a point in the North line and approximately 97 feet west of the Northeast corner of the South-half Northeast quarter of Section 22, T24N, R5E, Pawnee County, Oklahoma being a point 15 feet westerly, measured at right angles to an existing 8 inch pipeline owned by Phillips Pipe Line Company; thence South, parallel with and 15 feet westerly from the said 8 inch pipeline approximately 1318 feet to a point in the South line and approximately 97 feet west from the Southeast corner of the Northeast quarter Section 22 for the terminal point of the herein described pipe line route.

AFFIDAVIT OF ENGINEER

STATE OF OKLAHOMA
COUNTY OF WASHINGTON

I hereby certify that the above plat is true and correct and accurately reflects a survey made by me upon the ground.

D. E. Miller
Engineer

Subscribed and sworn to before me this 15th day of December, 1977.

My Commission Expires:

March 7, 1977

[Signature]
Notary Public

CERTIFICATE OF VICE-PRESIDENT

I, H. D. Trotter, do hereby certify that I am a Vice-President of Phillips Petro Company, a corporation, herein designated Applicant; that D. E. Miller is an engineer for pipe line purposes of Applicant; that the above plat was made under the authority of the Applicant and accurately shows the route of the 12" pipe line referred to in the accompanying application.

[Signature]
Vice-President

PHILLIPS PIPE LINE COMPANY
ROUTE OF 12" PIPELINE ACROSS
S/2 NE/4 SECTION 22, T24N, R 5 E
PAWNEE COUNTY, OKLAHOMA

SCALE 1" = 1000'

EXHIBIT "A"

UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF OKLAHOMA

ROBERT EARL BARNARD,

Plaintiff,

-vs-

MISSOURI-KANSAS-TEXAS RAILROAD
COMPANY,

Defendants.

No. C-75-73

FILED

APR 7 1975

Jack C. Silver, Clerk

ORDER OF DISMISSAL WITH PREJUDICE S. DISTRICT COURT

Now on this 7 day of April, 1975, comes on for hearing the application of the Plaintiff herein to dismiss the complaint in captioned case and according to the applications made to the Court the Court finds that the cause of action and complaint filed herein should be dismissed with prejudice.

IT IS THEREFORE ADJUDGED AND DECREED by the Court that the causes of action and complaint filed herein in captioned case be and the same are hereby dismissed with prejudice.

Allen E. Barnard

JUDGE

APPROVED AS TO FORM:

Attorney for Plaintiff

APR 4 1975

THOMAS C. SILVER, Clerk
U. S. DISTRICT COURT

73-C-374

On October 30, 1969, plaintiffs in the instant litigation commenced a civil action in the District Court of Osage County, Oklahoma, against Lafe R. Sartin and others. As a result of said litigation, a Journal Entry of Judgment and Order Confirming Sale was entered by the State Court on September 24, 1973. In its findings, the Court determined that the sum of \$35,973.59 should be divided between the parties, with Lafe R. Sartin receiving 1/4th, or \$8,993.40. The State Court further found that Lafe R. Smith was indebted to the Sand Springs State Bank in the total amount of \$4,005.69, which it found should be subtracted from the sum of money due Lafe R. Sartin.

The Court then ordered the sum of \$4,987.71 paid to Lafe R. Sartin.

On July 18, 1973, the Internal Revenue Service filed its Notice of Levy as to Lafe Sartin in the District Court of Osage County in the litigation then pending. The levy was in the amount of \$3,171.02.

On September 14, 1973, Delores N. Sartin filed her Motion to Stay Disbursements in the District Court of Osage County, wherein she alleged that by a decree of divorce entered in Tulsa County, Oklahoma, on November 27, 1963, Lafe R. Sartin was ordered to pay child support to Delores N. Sartin in the total sum of \$150.00 per month. She further alleged that thereafter Lafe R. Sartin made periodic payments, but that at the time her Motion to Stay Disbursements was filed he was in arrears in the total sum of \$9,000.00. She alleged that the children were still minors.

In the order of September 24, 1973, filed in the District Court of Osage County, that Court ordered that the sum of \$4,987.71 payable to Lafe R. Sartin not be disbursed until further order of the Court.

On September 28, 1973, Delores N. Sartin, filed an Application to Declare Decree for Alimony and Child Support a Lien on the Proceeds of the Judgment to be Disbursed to Defendant Lafe R. Sartin in the District Court of Osage County.

On October 3, 1973, Carl A. Back filed a Motion to Determine Priority of Claims and Proceeds of the Judgment for Lafe R. Sartin and Motion to Disburse Funds Accordingly. In that motion, Carl A. Back alleged that as a result of his efforts he recovered on behalf of Lafe R. Sartin the total sum of \$8,993.40, and that pursuant to the terms of a contract entered into by and between Carl A. Back, as attorney, and Lafe R. Sartin, as client, on December 30, 1869, whereby Carl A. Back was employed as attorney in the case pending in

the District Court of Osage County, he was entitled to an attorney fee in the sum of 1/3 of any and all amounts recovered by Lafe R. Sartin.

On October 12, 1973, the District Court of Osage County entered an order entitled "Order Joining the United States of America as Additional Party Defendant and Determining Priority of Contingent Attorney Fee Contract of Attorney for Defendant, Lafe R. Sartin." By that order the District Court of Osage County determined that the contingent fee of Carl A. Back was prior to the claim of the United States of America and Delores Sartin. The order further provided that the United States of America was allowed 30 days from the date of filing of said order to file pleadings and written objections to any of the findings of the Court in the October 12 order. On November 9, 1973, the United States of America duly filed its objection to the Order, and on November 15, 1973, properly removed the case to the United States District Court for the Northern District of Oklahoma.

Thereafter, Carl A. Back filed his Motion for Summary Judgment, which has this date been overruled by this Court.

On May 15, 1974, this Court ordered the District Court Clerk of Osage County, Oklahoma, to pay over the funds held on behalf of Lafe R. Sartin to the Federal Court Clerk for the Northern District of Oklahoma in the sum of \$4,786.46.

On July 16, 1974, this Court entered an order directing the payment to Carl A. Back the sum of \$1,595.49 as a partial release of his claim against the sum of \$4,786.46 held by the Clerk of this Court.

On November 7, 1974, the United States of America and Delores Sartin entered into a Stipulation, as follows:

"Come now the United States of America by and through its attorney, Robert P. Santee, Assistant United States Attorney for the Northern District of Oklahoma, and Delores Sartin, defendant herein, by and through her attorney, James N. Khourie, and hereby stipulate and agree that, in the event the Court rules that Lafe R. Sartin and his attorney,

Carl A. Back, have no interest in the remaining fund of \$3,190.97 now on deposit with the Court Clerk, the United States of America and Delores Sartin will accept the following sums from such amount now on deposit in settlement of their dispute each with the other as to their respective interest in said fund:

"Delores Sartin	\$1,500.00
"United States of America	\$1,690.97"

The basic argument of the Motion filed by Delores R. Sartin, which is the subject of this Order, is that since Carl A. Back had been paid the sum of \$1,595.49 as a partial release of his claim against the sum of \$4,786.46, which reflected the lack of any disagreement on the part of the United States Government or the attorney for Delores Sartin, that the claim of Carl Back was a first lien on the money being held by the court clerk. The Motion alleges that the only dispute remaining is between the United States Government and Delores R. Sartin with regard to the priority of their various liens. (It is noted that the motion was filed prior to the Stipulation hereinabove referenced and the dispute between the United States Government and Delores R. Sartin has been stipulated to as being resolved.)

The Court notes that Carl A. Back seeks an additional fee of \$1,402.31 out of the funds held by the Court Clerk for a total fee of \$2,997.80. He argues that since the sum of \$8,993.40 was actually recovered for Lafe Sartin, he is entitled to 1/3rd, or \$2,997.80. He argues that the set off in the State Court on the note to the Sand Springs Bank (principal sum of \$3,000.00, plus interest) constituted a beneficial interest to Lafe R. Sartin.

It appears to the Court that the thrust of this dispute is whether Carl A. Back is entitled to 1/3rd of \$8,993.40 or 1/3rd of \$4,786.46.

Having carefully reviewed the entire file and the positions of the parties here involved, the Court finds that Carl A. Back, by virtue of his contract of employment is entitled to recover the sum of \$1,595.49, or 1/3rd of \$4,786.46, which sum he has heretofore received.

IT IS, THEREFORE ORDERED that the Motion for Summary Judgment (having been converted by virtue of Rule 12(c) from the Motion for Judgment on the Pleadings to the alternative Motion for Summary Judgment) be and the same is hereby sustained, and judgment is directed to be entered as follows:

Carl A. Back	\$1,595.49 (already paid)
Delores Sartin	\$1,500.00
United States of America	\$1,690.97

IT IS FURTHER ORDERED that the Application for Evidentiary Hearing be and the same is hereby denied.

ENTERED this 4th day of April, 1975.



CHIEF UNITED STATES DISTRICT JUDGE

APR 4 1975

Jack C. Silver, Clerk
U. S. DISTRICT COURT

Defendants.

73-C-374

ENTERED this 4th day of April, 1975.

CHIEF UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

RAYMOND L. WARD and
ANITA J. WARD,

Plaintiffs,

vs.

LAFE R. SARTIN, et al.,

Defendants.

73-C-374

FILED

APR 4 1975

Jack C. Silver, Clerk
U. S. DISTRICT COURT

JUDGMENT

Based on the Order Sustaining Motion for Summary Judgment filed this date,

IT IS ORDERED THAT JUDGMENT BE ENTERED AS FOLLOWS:

Carl A. Back	\$1,595.49 (already paid)
Delores Sartin	\$1,500.00
United States of America	\$1,690.97

IT IS FURTHER ORDERED that the interested parties prepare proper order for disbursement of funds.

ENTERED this 4th day of April, 1975.



CHIEF UNITED STATES DISTRICT JUDGE

3-31-85
FILED

APR 4 1975

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

Jack C. Silver, Clerk
U. S. DISTRICT COURT

UNITED STATES OF AMERICA,)
)
Plaintiff,)
vs.) CIVIL ACTION NO. 74-C-598
)
)
MAE F. GILLIAM, a single)
person, COUNTY TREASURER,)
Tulsa County, and BOARD)
OF COUNTY COMMISSIONERS,)
Tulsa County,)
)
Defendants.)

JUDGMENT OF FORECLOSURE

THIS MATTER COMES on for consideration this 3rd
day of April, 1975, the Plaintiff appearing by Robert P.
Santee, Assistant United States Attorney; the Defendants,
County Treasurer, Tulsa County, and Board of County Commissioners,
Tulsa County, appearing by Gary J. Summerfield, Assistant District
Attorney; and the Defendant, Mae F. Gilliam, appearing not.

The Court being fully advised and having examined
the file herein finds that Defendants, County Treasurer, Tulsa
County, and Board of County Commissioners, Tulsa County, were
served with Summons and Complaint on December 23, 1974, as ap-
pears from the U.S. Marshals Service herein, and that Defendant,
Mae F. Gilliam, was served by publication, as appears from the
Proof of Publication filed herein.

It appearing that County Treasurer, Tulsa County, and
Board of County Commissioners, Tulsa County, have duly filed their
Answers herein on January 3, 1975, and that Defendant, Mae F.
Gilliam, has failed to answer herein and that default has been
entered by the Clerk of this Court.

The Court further finds that this is a suit based
upon a mortgage note and foreclosure on a real property mortgage
securing said mortgage note and that the following described

real property is located in Tulsa County, Oklahoma, within the Northern Judicial District of Oklahoma:

Lot Four (4), Block One (1), SUBURBAN ACRES THIRD ADDITION to the City of Tulsa, Tulsa County, Oklahoma, according to the recorded plat thereof.

THAT the Defendant, Mae F. Gilliam, did, on the 29th day of September, 1972, execute and deliver to the Administrator of Veterans Affairs, her mortgage and mortgage note in the sum of \$9,750.00 with 4 1/2 percent interest per annum, and further providing for the payment of monthly installments of principal and interest.

The Court further finds that Defendant, Mae F. Gilliam, made default under the terms of the aforesaid mortgage note by reason of her failure to make monthly installments due thereon for more than 11 months last past, which default has continued and that by reason thereof the above-named Defendant is now indebted to the Plaintiff in the sum of \$9,612.94 as unpaid principal with interest thereon at the rate of 4 1/2 percent per annum from April 1, 1974, until paid, plus the cost of this action accrued and accruing.

The Court further finds that there is due and owing to the County of Tulsa, State of Oklahoma, from Defendant, Mae F. Gilliam, the sum of \$ 40.00 plus interest according to law for personal property taxes for the year(s) 1973 & 1974 and that Tulsa County should have judgment, in rem, for said amount, but that such judgment is subject to and inferior to the first mortgage lien of the Plaintiff herein.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the Plaintiff have and recover judgment against Defendant, Mae F. Gilliam, in rem, for the sum of \$9,612.94 with interest thereon at the rate of 4 1/2 percent per annum from April 1, 1974, plus the cost of this action accrued and accruing, plus any additional sums advanced or to be advanced or expended during this foreclosure action by Plaintiff for taxes, insurance, abstracting, or sums for the preservation of the subject property.


IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the County of Tulsa have and recover judgment, in rem, against Defendant, Mae F. Gilliam, for the sum of \$ 40.00 as of the date of this judgment plus interest thereafter according to law for personal property taxes, but that such judgment is subject to and inferior to the first mortgage lien of the Plaintiff herein.

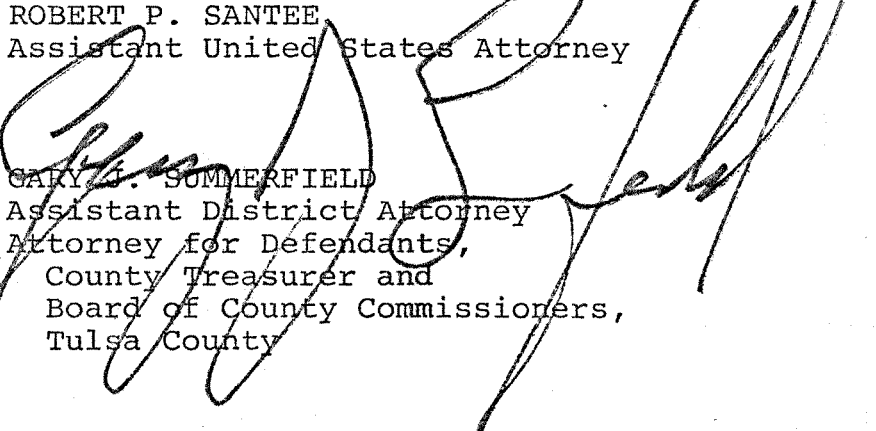
IT IS FURTHER ORDERED, ADJUDGED AND DECREED that upon the failure of said Defendant to satisfy Plaintiff's money judgment herein, an Order of Sale shall be issued to the United States Marshal for the Northern District of Oklahoma, commanding him to advertise and sell with appraisement the real property and apply the proceeds thereof in satisfaction of Plaintiff's judgment. The residue, if any, shall be deposited with the Clerk of the Court to await further order of the Court.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that from and after the sale of said property, under and by virtue of this judgment and decree, all of the Defendants and each of them and all persons claiming under them since the filing of the complaint herein be and they are forever barred and foreclosed of any right, title, interest or claim in or to the real property or any part thereof.


United States District Judge

APPROVED


ROBERT P. SANTEE
Assistant United States Attorney


GARY J. SOMMERFIELD
Assistant District Attorney
Attorney for Defendants,
County Treasurer and
Board of County Commissioners,
Tulsa County

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
OKLAHOMA

FRANK EDWARDS,

Plaintiff

vs.

SECRETARY OF THE NAVY,
et al,

Defendants

CIVIL ACTION NO. 71-C-365

E I L E D
APR 4 1975

Jack C. Silver, Clerk
U. S. DISTRICT COURT

REX CRUMPTON,

Plaintiff

vs.

SECRETARY OF THE NAVY,
et al,

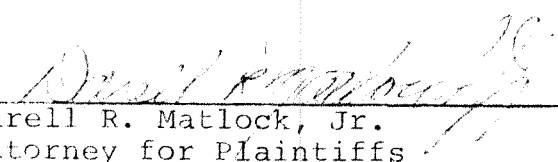
Defendants

CIVIL ACTION NO. 71-C-366 ✓

DISMISSAL

COMES NOW the Plaintiffs above named, and hereby dismiss
their above causes of action and complaints against the Defend-
ants with prejudice.

Dated this 4th day of April, 1975.


Darell R. Matlock, Jr.
Attorney for Plaintiffs
520 Center Building
630 West Seventh
Tulsa, Oklahoma 74127

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
OKLAHOMA

FRANK EDWARDS,
Plaintiff
vs.
SECRETARY OF THE NAVY,
et al,
Defendants.

CIVIL ACTION NO. 71-C-365

FILED
APR 4 1975

Jack C. Silver, Clerk
U. S. DISTRICT COURT

REX CRUMPTON,
Plaintiff
vs.
SECRETARY OF THE NAVY,
et al,
Defendants.

CIVIL ACTION NO. 71-C-366

STIPULATION FOR DISMISSAL

COMES NOW the above named and undersigned parties and stipu-
late that the Plaintiffs herein shall dismiss their cause of
action and complaints against the Defendants herein.

David R. [Signature]
Attorney for Plaintiffs

Attorney for Defendants

FILED

APR 4 1975

Jack C. Silver, Clerk
U. S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

AMERICAN STANDARD CREDIT, INC.,

Plaintiff,

vs.

TOM CHILERS GRADING AND EXCAVATING
CO.,

Defendant.

74-C-402

JUDGMENT

Based on the Order filed this date Sustaining Plaintiff's Motion for Summary Judgment,

IT IS ORDERED that judgment is entered in favor of plaintiff and against the defendant and plaintiff is entitled to possession of the personal property here involved and a reasonable attorney fee in the amount of \$ 15,000⁰⁰ to be taxed as costs, all in accordance with 12 O.S.A. Section 1585.

ENTERED this 4th day of April, 1975.

Allen E. Barrow

CHIEF UNITED STATES DISTRICT JUDGE

FILED

APR 4 1975

Jack C. Silver, Clerk
U. S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

AMERICAN STANDARD CREDIT, INC.,

Plaintiff,

vs.

TOM CHILERS GRADING AND EXCAVATING
CO.,

Defendant.

74-C-402

ORDER SUSTAINING PLAINTIFF'S MOTION
FOR SUMMARY JUDGMENT

The Court has for consideration the plaintiff's motion for summary judgment, the briefs in support and opposition thereto; the affidavits; the transcript of the hearing held on October 30, 1974, and, having carefully perused the entire file, and, being fully advised in the premises, finds:

The instant litigation was commenced in this Court on October 16, 1974, and is a complaint in replevin. Proper replevin bond was posted in the amount of \$451,880.00.

At the hearing on the application for a pre-judgment order, the following testimony was adduced.

David McBride testified that he was executive vice president of Eastern Equipment Company, who was in charge of the books and records of said Eastern Equipment Company. He testified that he knew of the sale in Muskogee of equipment to Tom Chilers Excavating Company out of Prue, Oklahoma. The contract between Eastern Equipment Company and Tom Chilers Excavating Company was introduced into evidence. He testified that said contract was assigned to American Standard Credit, Inc., and that said company was still the holder of said paper. He testified further that none of the payments called for by said contract had been made by Tom Chilers Excavating

Company. Mr. McBride testified that he knew that a demand had been made by American Standard Credit to either return the property covered by the contract or make the payments. The financing statement, which was introduced into evidence, was filed in Oklahoma County. At the conclusion of the hearing, the Court entered an order directing the Clerk to issue a Writ of Replevin directing the Marshal to deliver the equipment to the plaintiff.

The conditional sale contract, attached as "Exhibit A" to the complaint, reflects that it was executed May 16, 1974.

Payment was to be made as follows:

"Twenty-four (24) monthly payments of \$7,610.00 each
"Exception: Provision for 3 skip payments per each 12 months only if a minimum of 4 successive payments have been made on the due date before a skip payment can be used, also providing that not more than 2 skips can be taken in succession."

Payments were to commence June 26, 1974. The total amount of the contract was \$225,940.00. The equipment involved, as reflected by the Conditional Sale Contract is as follows:

<u>Quantity</u>	<u>Model and Year</u>	<u>Description</u>	<u>Serial #</u>
2	1973 Wabco 101F	Scrapers	sn CP65172 sn CP-65247
1	1973 Wabco Model D	Tractor/Roller	sn GP-61349
2	1965 Caterpillar Model 12 E	Motor Graders	sn 99E4052 sn 99E819
1	1970 Caterpillar Model 613	Scroper	sn 71M506-72M506
1	1972 Caterpillar Model D5	Tractor/Dozer	sn 93J609
1	1972 Caterpillar Model 920	Loader	sn 62K2896

Tom Chilens Grading and Excavating Co., by Johnson D. Sinclair, its agent and attorney, filed a Waiver of Summons and Voluntary Appearance on October 24, 1974.

Writ in Replevin was filed October 30, 1974, for delivery of the goods and chattels.

On November 25, 1974, plaintiff filed its Motion *
for Default. Thereafter, and without leave of Court, defendant
filed its Answer on December 2, 1974.

Defendant has raised no affirmative defense, either
at the hearing or in its answer.

The entire file reflects no genuine issue of any
material fact.

The Court finds that Title 12 O.S.A. Section 1585
provides:

"In an action to recover the possession of
personal property, judgment for the plaintiff
may be for the possession, or for the recovery
of possession, or the value thereof in case a
delivery cannot be had, and of damages for
the detention. If the property has been delivered
to the plaintiff, and the defendant claim a re-
turn thereof, judgment for the defendant may
be for a return of the property, or the value
thereof in case a return cannot be had, and
damages for taking and withholding the same.
The judgment rendered in favor of the prevailing
party in such action may include a reasonable
attorney fee to be set by the court, to be
taxed and collected as costs." (Emphasis supplied)


The underscored portion of the above quoted statute is the only
change made by the 1972 amendment.

In the instant litigation the plaintiff now, by Writ
of Replevin, has actual possession of the property which is the
subject of this action.

The primary object of statutory replevin is the
recovery of specific personal property and not of money. The
alternative remedy of a money judgment in replevin is extended
solely for the benefit of the wronged party and affords a measure
of relief only when the property cannot be returned.

The Court finds that plaintiff is entitled to a
judgment of possession of the personal property and a reasonable
attorney fee to be taxed as costs.

ENTERED this 4th day of April, 1975.



CHIEF UNITED STATES DISTRICT JUDGE

FILED

APR 3 1975 *KL*

Jack C. Silver, Clerk
U. S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

GULF STATES MANUFACTURERS, INC.,
a corporation,

Plaintiff,

VS

74-C-421✓

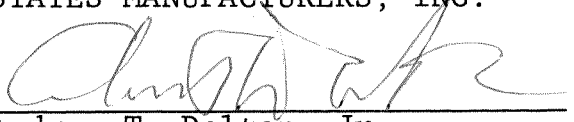
WILLIAM WEBB d/b/a WEBBCRAFT, INC.,
JO ANN MURPHY, JOE D. MURPHY and
JOHN I. BUTTS d/b/a MURPHY BUILDINGS
COMPANY, a partnership, MURPHY
BUILDINGS COMPANY, INC., a
corporation, THE CHAMBER OF
COMMERCE OF COLLINSVILLE, TULSA
COUNTY, OKLAHOMA, a corporation,
WESLEY EVANS d/b/a EVANS READY-MIX
CO., JACK YOUNG d/b/a JACK YOUNG
GLASS CO., and OVERHEAD DOOR
COMPANY OF TULSA, a corporation,

Defendants.

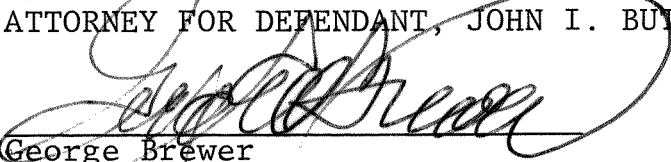
STIPULATION

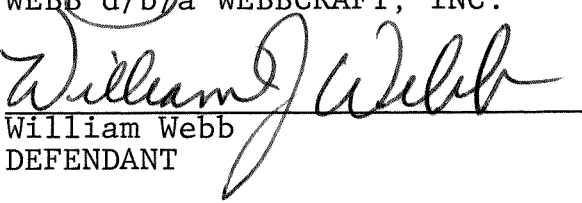
All parties to this action stipulate that the motion to
substitute parties filed by the Plaintiff herein may be sustained.


R. Casey Cooper
ATTORNEY FOR PLAINTIFF, GULF
STATES MANUFACTURERS, INC.


Andrew T. Dalton, Jr.
ATTORNEY FOR DEFENDANTS, JO ANN
MURPHY, JOE D. MURPHY and MURPHY
BUILDINGS COMPANY, INC.


David Nelson
ATTORNEY FOR DEFENDANT, JOHN I. BUTTS


George Brewer
ATTORNEY FOR DEFENDANT, WILLIAM
WEBB d/b/a WEBBCRAFT, INC.


William Webb
DEFENDANT

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

APR 3 1975

Jack C. Silver, Clerk
U. S. DISTRICT COURT

GULF STATES MANUFACTURERS, INC.,
a corporation,

Plaintiff,

VS

74-C-421

WILLIAM WEBB d/b/a WEBBCRAFT, INC.,
JO ANN MURPHY, JOE D. MURPHY and
JOHN I. BUTTS d/b/a MURPHY BUILDINGS
COMPANY, a partnership, MURPHY
BUILDINGS COMPANY, INC., a
corporation, THE CHAMBER OF
COMMERCE OF COLLINSVILLE, TULSA
COUNTY, OKLAHOMA, a corporation,
WESLEY EVANS d/b/a EVANS READY-MIX
CO., JACK YOUNG d/b/a JACK YOUNG
GLASS CO., and OVERHEAD DOOR
COMPANY OF TULSA, a corporation,

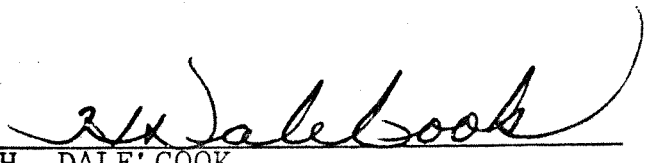
Defendants.

ORDER OF DISMISSAL WITH PREJUDICE

All the parties to this action having compromised and settled all issues in the action and having stipulated that the Complaint, Counter-Claims and Cross-Claims of every party herein, and this action may be dismissed with prejudice, it is therefore;

ORDERED, that the Complaint, Counter-Claims and Cross-Claims of every party herein, and this action are, by the Court, dismissed with prejudice to the bringing of another action upon the same cause or causes of action.

Entered this 3rd day of April, 1975.


H. DALE COOK
UNITED STATES DISTRICT JUDGE

FILED

APR 3 1975 b

Jack C. Silver, Clerk
U. S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

JACK VICKERS,

Plaintiff,

vs.

POWER CHEMICAL COMPANY, INC.,
GEORGIA AGENCY CO., MR. H. E.
CALDWELL, an individual, MR.
ED SLAEKER, an individual, and
MR. RAY POWELL, an individual,

Defendants.

73-C-413 ✓

DEFAULT JUDGMENT AS TO THE DEFENDANT,
H. E. CALDWELL

The Court having this date sustained plaintiff's Motion
for Default Judgment as to the defendant, H. E. Caldwell,

IT IS ORDERED that judgment be entered in favor of plaintiff,
Jack Vickers, and against the defendant, H. E. Caldwell, in the
amount of \$64,716.60, plus attorney's fees in the amount of
\$ 7,000.00 and costs of this action.

ENTERED this 3rd day of April, 1975.

Allen E. Barron

CHIEF UNITED STATES DISTRICT JUDGE

- 1 -

As grounds for relief, plaintiff alleges that an appeal was not perfected from proceedings in a criminal case in which he was the defendant. He alleges that he was denied free and meaningful access to the courts; that he was denied due process and equal protection under the law on appeal; that he was denied an appeal because the defendants, who were Public Defenders, did not perfect the appeal within the time allowed by statute; and that by virtue thereof he has suffered grave physical and mental anguish.

He seeks a declaratory judgment that the defendants' acts, policies and practices described herein violated his rights under the Consitution and compensatroy damages in the sum of \$500,000 from each of the defendants.

The Court will start with the basic premise that an attorney, whether appointed or retained is not acting under color of law. Page v. Sharpe (1st CCA, 1973) 487 F.2d 567; Szijarto v. Legeman (9th CCA, 1972) 446 F.2d 865; French v. Corrigan (7th CCA, 1970) 432 F.2d 1211, 1214, cert. denied 401 U.S. 915; Mulligan vs. Schlachter (6th CCA, 1968) 389 F.2d 231; Barnes v. Dorsey (8th CCA, 1973) 480 F.2d 1057; Hill v. Lewis (USDC, E.D. Ark., W.D. 1973) 361 F.Supp. 813; Espinoza v. Rogers (10th CCA, 1972) 470 F.2d 1174; Ehn v. Price (USDC, N.D. Ill. E.D. 1974) 372 F.Supp. 151; Sinclair v. Spatocco (9th CCA, 1972) 452 F.2d 1213.

Under the general law, then it is apparent that an attorney representing a defendant in a criminal case, although an officer of the Court, is not performing action under the color of law so as to bring him within the purview of a 42 U.S.C.A Section 1983 action. Harkins v. Eldredge (8th CCA, 1974) 505 F.2d 802, 803; Glasspoole v. Albertson (8th CCA, 1974) 491 F.2d 1090; Barnes v. Dorsey (8th CCA, 1973) 480 F.2d 1057, 1060-1061.

Additionally, the cases hold that a private attorney representing a defendant, whether by employment or by appointment of the Court, is not a State functionary, and that his actions are not State actions so as to bring him within the reach of section 1983, which was not designed to provide a federal forum for the redress of purely private wrongs.

In *Espinoza v. Rogers* (10th CCA, 1972) 470 F.2d 1174, the Court said:

"Therefore, we hold that an attorney does not act under color of state law simply because he has accepted employment as a Colorado Public Defender. See *Thomas v. Howard*, 455 F.2d 228 (3rd Cr. 1972); *United States ex rel Wood v. Blacker*, 335 F.Supp. 43 (D.C. N.J. 1971); *Peake v. County of Philadelphia, Pennsylvania*, 280 F.Supp. 853 (ED Pa., 1968)."

The Court notes, with interest, recent cases from other circuits that hold, unequivocally, that even assuming the color of law requirement having been met, that a County Public Defender, created by statute, enjoys immunity from liability under the Civil Rights Act. See *Brown v. Josphe* (3rd CCA, 1972) 463 F.2d 1046; *Gardner v. Luckey* (5th CCA, 1974) 500 F.2d 713; *John v. Hurt* (7th CCA, 1973) 489 F.2d 786.

In addition, the Court finds that the appointment of Counsel is not necessary, that a hearing is not required, and that sua sponte, the cause of action and complaint should be dismissed.

IT IS, THEREFORE, ORDERED that plaintiff's application for appointment of Counsel be and the same is hereby denied.

IT IS FURTHER ORDERED that the cause of action and complaint, sua sponte, be dismissed, for the reason that a careful reading of the complaint and the applicable case law reveals that the plaintiff has not stated a cause of action upon which relief can be granted. In this connection the Court notes that there are adequate remedies for the plaintiff to pursue to correct any error sustained or harm committed as a result of any denial of rights as to the plaintiff.

ENTERED this 3rd day of April, 1975.



CHIEF UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF OKLAHOMA

HOMER H. HUBBARD, JR.,

Plaintiff,

vs.

No. 74-C-441

EMPLOYERS MUTUAL LIABILITY
INSURANCE COMPANY OF
WISCONSIN, a mutual insurance
company, HARRY D. WATSON and
ROBERT T. ROUNSAVILLE, M.D.,

Defendants.

FILED

APR 2 1975

Jack C. Silver, Clerk
U. S. DISTRICT COURT

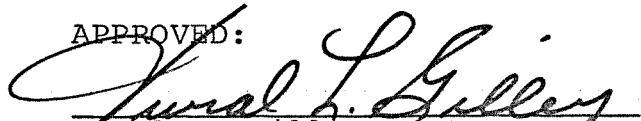
O R D E R


This cause comes on for hearing this 27th day of March, 1975, upon the motion to dismiss, motion to strike, and motion for more definite statement filed herein by the defendant, Employers Mutual Liability Insurance Company of Wisconsin, at which time the plaintiff was represented by his attorney, Vural L. Gilley, and the defendant, Employers Mutual Liability Insurance Company of Wisconsin, was represented by its attorney, Richard Carpenter, and the Court, being duly advised in the premises, finds that each of the defendant's motions should be and the same are hereby sustained. Upon application of the plaintiff, the Court finds that said plaintiff should have 20 days from the date of this order within which time to file an amended complaint to set forth a claim as to Employers Mutual Liability Insurance Company of Wisconsin for only the amount of contract benefits plaintiff alleges is due him under the disability insurance policy.

BE IT, THEREFORE, ORDERED, ADJUDGED AND DECREED by the Court that the motions of the defendant, Employers Mutual Liability Insurance Company of Wisconsin, should be and the same are hereby sustained and the plaintiff is granted 20 days within which time to file an amended complaint setting forth only his claim for the amount of policy benefits allegedly due him under the disability policy. The plaintiff's claims as to the defendant, Rounsaville, are not affected by this order. The claims as to Rounsaville may be renewed in the amended complaint.


UNITED STATES DISTRICT JUDGE

APPROVED:


Vural L. Gilley, Attorney
for Plaintiff.


Richard Carpenter, Attorney
for Defendant, Employers Mutual
Liability Insurance Company
of Wisconsin.

IN THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF OKLAHOMA

HOMER H. HUBBARD, JR.,

Plaintiff,

vs.

No. 74-C-441

EMPLOYERS MUTUAL LIABILITY
INSURANCE COMPANY OF
WISCONSIN, a mutual insurance
company, HARRY D. WATSON and
ROBERT T. ROUNSAVILLE, M.D.,

Defendants.

FILED


APR 2 1975

Jack C. Silver, Clerk
U. S. DISTRICT COURT

ORDER DISMISSING AS TO HARRY D. WATSON

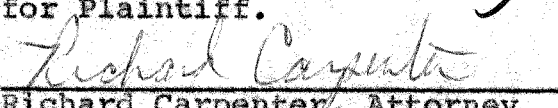
This cause comes on for hearing this 27th day of March, 1975, upon the motion to dismiss for failure to state a claim upon which relief can be granted filed herein by the defendant, Harry D. Watson, at which time the plaintiff was represented by his attorney, Vural L. Gilley, and the defendant, Harry D. Watson was represented by his attorney, Richard Carpenter, and the Court, being duly advised in the premises, finds that the defendant's motion to dismiss should be sustained and plaintiff's cause should be and the same is hereby dismissed as to the defendant, Harry D. Watson.

BE IT, THEREFORE, ORDERED, ADJUDGED AND DECREED by the Court that plaintiff's cause of action as to Harry D. Watson should be and the same is hereby dismissed.


UNITED STATES DISTRICT JUDGE

APPROVED:


Vural L. Gilley, Attorney
for Plaintiff.


Richard Carpenter, Attorney
for Defendant, Harry D. Watson.

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

ALLIED MILLS, INC.,
an Indiana corporation,

Plaintiff,

-vs-

DEWEY MILL AND ELEVATOR, INC.,
an Oklahoma corporation,

Defendant.

FILED

APR 2 1975

Jack C. Silver, Clerk
U. S. DISTRICT COURT

No. 73-C-120

O R D E R

On this 24th day of March, 1975, said cause came on for further hearing specifically as to the creditor's claim of International Minerals and Chemical Corporation at which time appeared Fred W. Woodson, Receiver, James E. Poe, attorney for Receiver and Daniel Bassett, attorney for International Minerals and Chemical Corporation. After hearing statements of counsel the Court finds that the further consideration of said creditor's claim should be deferred temporarily and said matter be taken under advisement.

The Court finds that subsequent to the last hearing creditor's claim of Continental Grain Company has been further documented and sufficient evidence furnished to establish that the said claim is not barred by the statute of limitations. The Court therefore finds that said creditor's claim in the amount of \$2,520.78 should be and is allowed.

The Court further finds that subsequent to the last hearing additional verification has been submitted as to the attorney fees allowable as a part of the claim of Union National Bank of Bartlesville, and pursuant thereto said creditor should be and is allowed attorney fees as a portion of the claim in the amount of \$600.00.

IT IS SO ORDERED.

LUTHER BOHANON

Honorable Luther Bohanon, Judge

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

ALLIED MILLS, INC.,
an Indiana corporation,

Plaintiff,

vs.

DEWEY MILL AND ELEVATOR, INC.,
an Oklahoma corporation,

Defendant.

No. 73-C-120

FILED

APR 2 1975

Jack C. Silver, Clerk

U. S. DISTRICT COURT

O R D E R

This cause came on for hearing before the Court on March 25, 1975, for the purpose of allowing International Minerals and Chemicals Corporation to show good cause why its claim should be allowed to be filed beyond the date fixed by the Court for filing such claims.

The Court, having carefully considered the file in the case and the argument of counsel at hearing, is of the opinion that the objection of Receiver to said claim should be and is hereby allowed in its entirety, as good cause has not been shown by International Minerals and Chemicals Corporation.

IT IS SO ORDERED.

Dated this 1st day of April, 1975.

Lester Bohannon
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

GARY WILSON,

Plaintiff,

vs.

LEE WAY MOTOR FREIGHT, INC.,

Defendant.

Civil No. 74-C-298

FILED

APR 2 1975

ORDER OF DISMISSAL

Jack C. Silver, Clerk
U. S. DISTRICT COURT

Upon motion of the defendant and for good cause shown,
the claims of the plaintiff and this action are hereby dis-
missed without prejudice, and without costs.

Entered at Tulsa, Oklahoma, this 2 day of April, 1975.

W. J. Salebook

UNITED STATES DISTRICT JUDGE

FORM APPROVED:

[Signature]
For Plaintiff

[Signature]
For Defendant